

105TH CONGRESS  
1ST SESSION

# S. 414

To amend the Shipping Act of 1984 to encourage competition in international shipping and growth of United States imports and exports, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MARCH 10, 1997

Mrs. HUTCHISON (for herself, Mr. LOTT, Mr. BREAUX, and Mr. GORTON) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

JULY —, 1997

Reported by Mr. MCCAIN, with an amendment in the nature of a substitute

[Strike all after the enacting clause and insert the part printed in italic]

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## A BILL

To amend the Shipping Act of 1984 to encourage competition in international shipping and growth of United States imports and exports, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Ocean Shipping Re-  
5 form Act of 1997” .

1 **SEC. 2. EFFECTIVE DATE.**

2 Except as otherwise expressly provided in this Act,  
3 this Act and the amendments made by this Act take effect  
4 on March 1, 1998.

5 **TITLE I—AMENDMENTS TO THE**  
6 **SHIPPING ACT OF 1984**

7 **SEC. 101. PURPOSE.**

8 Section 2 of the Shipping Act of 1984 (46 U.S.C.  
9 App. 1701) is amended by—

10 (1) striking “and” after the semicolon in para-  
11 graph (2);

12 (2) striking “needs.” in paragraph (3) and in-  
13 serting “needs; and”; and

14 (3) adding at the end thereof the following:

15 “(4) to promote the growth and development of  
16 United States exports through competitive and effi-  
17 cient ocean transportation and by placing a greater  
18 reliance on the marketplace.”.

19 **SEC. 102. DEFINITIONS.**

20 (a) **IN GENERAL.**—Section 3 of the Shipping Act of  
21 1984 (46 U.S.C. App. 1702) is amended by—

22 (1) striking paragraph (5) and redesignating  
23 paragraph (4) as paragraph (5);

24 (2) inserting after paragraph (3) the following:

25 “(4) ‘Board’ means the Intermodal Transpor-  
26 tation Board.”.

1           (3) striking “the government under whose reg-  
2           istry the vessels of the carrier operate;” in para-  
3           graph (8) and inserting “a government;”;

4           (4) striking paragraph (9) and inserting the fol-  
5           lowing:

6           “(9) ‘deferred rebate’ means a return by a com-  
7           mon carrier of any portion of freight money to a  
8           shipper as a consideration for that shipper giving all,  
9           or any portion, of its shipments to that or any other  
10          common carrier over a fixed period of time, the pay-  
11          ment of which is deferred beyond the completion of  
12          service for which it is paid, and is made only if the  
13          shipper has agreed to make a further shipment or  
14          shipments with that or any other common carrier.”;

15          (5) striking “in an unfinished or semifinished  
16          state that require special handling moving in lot  
17          sizes too large for a container” in paragraph (11);

18          (6) striking “paper board in rolls, and paper in  
19          rolls.” in paragraph (11) and inserting “paper and  
20          paper board in rolls or in pallet or skid-sized  
21          sheets.”;

22          (7) striking “conference, other than a service  
23          contract or contract based upon time-volume rates,”  
24          in paragraph (14) and inserting “conference”;

1           (8) striking “conference.” in paragraph (14)  
2           and inserting “conference and the contract provides  
3           for a deferred rebate arrangement.”;

4           (9) by striking “carrier.” in paragraph (15) and  
5           inserting “carrier, or in connection with a common  
6           carrier and a water carrier subject to subchapter H  
7           of chapter 135 of title 49, United States Code.”.

8           (10) striking paragraph (17) and redesignating  
9           paragraphs (18) through (27) as paragraphs (17)  
10          through (26), respectively;

11          (11) striking paragraph (18), as redesignated,  
12          and inserting the following:

13               “(18) ‘ocean freight forwarder’ means a person  
14          that—

15                       “(A)(i) in the United States, dispatches  
16                       shipments from the United States via a com-  
17                       mon carrier and books or otherwise arranges  
18                       space for those shipments on behalf of shippers;  
19                       and

20                       “(ii) processes the documentation or per-  
21                       forms related activities incident to those ship-  
22                       ments; or

23                       “(B) acts as a common carrier that does  
24                       not operate the vessels by which the ocean  
25                       transportation is provided, and is a shipper in

1 its relationship with an ocean common car-  
 2 rier.”;

3 (12) striking paragraph (20), as redesignated  
 4 and inserting the following:

5 “(20) ‘service contract’ means a written con-  
 6 tract, other than a bill of lading or a receipt, be-  
 7 tween one or more shippers and an individual ocean  
 8 common carrier or an agreement between or among  
 9 ocean common carriers in which the shipper or ship-  
 10 pers makes a commitment to provide a certain vol-  
 11 ume or portion of cargo over a fixed time period,  
 12 and the ocean common carrier or the agreement  
 13 commits to a certain rate or rate schedule and a de-  
 14 fined service level, such as assured space, transit  
 15 time, port rotation, or similar service features. The  
 16 contract may also specify provisions in the event of  
 17 nonperformance on the part of any party.”;

18 (13) striking paragraph (22), as redesignated,  
 19 and inserting the following:

20 “(22) ‘shipper’ means—

21 “(A) a cargo owner;

22 “(B) the person for whose account the  
 23 ocean transportation is provided;

24 “(C) the person to whom delivery is to be  
 25 made;

1                   ~~“(D) a shippers’ association; or~~

2                   ~~“(E) an ocean freight forwarder, as de-~~  
 3                   ~~defined in paragraph (18)(B) of this section, that~~  
 4                   ~~accepts responsibility for payment of all charges~~  
 5                   ~~applicable under the tariff or service contract.”.~~

6           (b) ~~SPECIAL EFFECTIVE DATE.~~—The amendments  
 7 made by subsection (a) take effect on the date of enact-  
 8 ment, except that the amendments made by paragraphs  
 9 (1) and (2) take effect on January 1, 1999.

10 **SEC. 103. AGREEMENTS WITHIN THE SCOPE OF THE ACT.**

11           (a) ~~OCEAN COMMON CARRIERS.~~—Section 4(a) of the  
 12 Shipping Act of 1984 (46 U.S.C. App. 1703(a)) is amend-  
 13 ed by—

14                   (1) striking ~~“operators or non-vessel-operating~~  
 15                   ~~common carriers;”~~ in paragraph (5) and inserting  
 16                   ~~“operators;”~~;

17                   (2) striking ~~“and”~~ in paragraph (6) and insert-  
 18                   ing ~~“or”~~; and

19                   (3) striking paragraph (7) and inserting the fol-  
 20                   lowing:

21                   ~~“(7) discuss and agree upon any matter related~~  
 22                   ~~to service contracts.”.~~

23           (b) ~~MARINE TERMINAL OPERATORS.~~—Section 4(b)  
 24 of that Act (46 U.S.C. App. 1703(b)) is amended by—

1           (1) striking “(to the extent the agreements in-  
2       volve ocean transportation in the foreign commerce  
3       of the United States)”; and

4           (2) striking “arrangements.” in paragraph (2)  
5       and inserting “arrangements, to the extent that such  
6       agreements involve ocean transportation in the for-  
7       eign commerce of the United States.”.

8       **SEC. 104. AGREEMENTS.**

9       Section 5(b) of the Shipping Act of 1984 (46 U.S.C.  
10   App. 1704(b)) is amended by—

11           (1) striking “and” at the end of paragraph (7);

12           (2) striking paragraph (8) and inserting the fol-  
13       lowing:

14           “(8) provide that any member of the conference  
15       may take independent action on any rate or service  
16       item upon not more than 5 calendar days’ notice to  
17       the conference and that, except for exempt commod-  
18       ities not published in the conference tariff, the con-  
19       ference will include the new rate or service item in  
20       its tariff for use by that member, effective no later  
21       than 5 calendar days after receipt of the notice, and  
22       by any other member that notifies the conference  
23       that it elects to adopt the independent rate or serv-  
24       ice item on or after its effective date, in lieu of the

1 existing conference tariff provision for that rate or  
2 service item; and

3 “(9) prohibit the conference from—

4 “(A) prohibiting or restricting the mem-  
5 bers of the conference from engaging in nego-  
6 tiations for individual service contracts under  
7 section 8(c)(3) of this Act with 1 or more ship-  
8 pers;

9 “(B) requiring a member of the conference  
10 to disclose the existence of a confidential indi-  
11 vidual service contract under section 8(c)(3) of  
12 this Act, or a negotiation on an individual serv-  
13 ice contract under section 8(c)(3) of this Act,  
14 except when the conference enters into negotia-  
15 tions with the same shipper; and

16 “(C) issuing mandatory rules or require-  
17 ments affecting individual service contracts  
18 under section 8(c)(3) of this Act, except as pro-  
19 vided in subparagraph (B).

20 A conference may issue voluntary guidelines relating to  
21 the terms and procedures of individual service contracts  
22 under section 8(c)(3) of this Act if the guidelines explicitly  
23 state the right of members of the conference not to follow  
24 the guidelines.”.



1 **SEC. 105. EXEMPTION FROM ANTITRUST LAWS.**

2 (a) IN GENERAL.—Section 7 of the Shipping Act of  
3 1984 (46 U.S.C. App. 1706) is amended by—

4 (1) inserting “or publication” in paragraph (2)  
5 of subsection (a) after “filing”;

6 (2) inserting “Federal Maritime” before “Com-  
7 mission” in paragraph (6) of subsection (a);

8 (3) striking “or” at the end of subsection  
9 (b)(2);

10 (4) striking “States.” at the end of subsection  
11 (b)(3) and inserting “States; or”; and

12 (5) adding at the end of subsection (b) the fol-  
13 lowing:

14 “(4) to any loyalty contract.”.

15 (b) SPECIAL EFFECTIVE DATE.—The amendments  
16 made by subsection (a) take effect on the date of enact-  
17 ment except the amendment made by paragraph (2) of  
18 subsection (a) takes effect on January 1, 1999.

19 **SEC. 106. TARIFFS.**

20 (a) IN GENERAL.—Subsection (a) of section 8 of the  
21 Shipping Act of 1984 (46 U.S.C. App. 1707) is amended  
22 by—

23 (1) inserting “new assembled motor vehicles,”  
24 after “scrap,” in paragraph (1);

25 (2) striking “file with the Commission; and” in  
26 paragraph (1);

1           ~~(3) striking “inspection,” in paragraph (1) and~~  
 2           inserting “inspection in an automated tariff sys-  
 3           ~~tem,”;~~

4           ~~(4) striking “tariff filings” in paragraph (1)~~  
 5           ~~and inserting “tariffs”;~~

6           ~~(5) striking “and” at the end of paragraph~~  
 7           ~~(1)(D);~~

8           ~~(6) striking “loyalty contract,” in paragraph~~  
 9           ~~(1)(E);~~

10          ~~(7) striking “agreement.” in paragraph (1)(E)~~  
 11          ~~and inserting “agreement; and”;~~

12          ~~(8) adding at the end of paragraph (1) the fol-~~  
 13          ~~lowing:~~

14                 ~~“(F) include copies of any loyalty contract,~~  
 15                 ~~omitting the shipper’s name.”; and~~

16          ~~(9) striking paragraph (2) and inserting the fol-~~  
 17          ~~lowing:~~

18                 ~~“(2) Tariffs shall be made available electroni-~~  
 19                 ~~cally to any person, without time, quantity, or other~~  
 20                 ~~limitation, through appropriate access from remote~~  
 21                 ~~locations, and a reasonable charge may be assessed~~  
 22                 ~~for such access. No charge may be assessed a Fed-~~  
 23                 ~~eral agency for such access.”.~~

24          ~~(b) SERVICE CONTRACTS.—Subsection (c) of that~~  
 25          ~~section is amended to read as follows:~~

1 “(c) SERVICE CONTRACTS.—

2 “(1) IN GENERAL.—An individual ocean com-  
 3 mon carrier or an agreement between or among  
 4 ocean common carriers may enter into a service con-  
 5 tract with one or more shippers subject to the re-  
 6 quirements of this Act. The exclusive remedy for a  
 7 breach of a contract entered into under this sub-  
 8 section shall be an action in an appropriate court,  
 9 unless the parties otherwise agree.

10 “(2) AGREEMENT SERVICE CONTRACTS.—Ex-  
 11 cept for service contracts dealing with bulk cargo,  
 12 forest products, recycled metal scrap, new assembled  
 13 motor vehicles, waste paper, or paper waste, each  
 14 contract entered into under this subsection by an  
 15 agreement shall be filed confidentially with the Com-  
 16 mission, and at the same time, a concise statement  
 17 of its essential terms shall be published and made  
 18 available to the general public in tariff format, and  
 19 those essential terms shall be available to all ship-  
 20 pers similarly situated. The essential terms shall in-  
 21 clude—

22 “(A) the origin and destination port ranges  
 23 in the case of port-to-port movements, and the  
 24 origin and destination geographic areas in the  
 25 case of through intermodal movements;

1           ~~“(B) the commodity or commodities in-~~  
2           ~~volved;~~

3           ~~“(C) the minimum volume;~~

4           ~~“(D) the line-haul rate;~~

5           ~~“(E) the duration;~~

6           ~~“(F) service commitments; and~~

7           ~~“(G) the liquidated damages for non-~~  
8           ~~performance, if any.~~

9           ~~“(3) INDIVIDUAL SERVICE CONTRACTS.—Not-~~  
10          ~~withstanding subsection (a) of this section and para-~~  
11          ~~graph (2) of this subsection, service contracts en-~~  
12          ~~tered into under this subsection between 1 or more~~  
13          ~~shippers and an individual ocean common carrier—~~

14                 ~~“(A) may be made on a confidential basis;~~

15                 ~~“(B) are not required to be filed with the~~  
16          ~~Commission; and~~

17                 ~~“(C) shall be retained by the parties to the~~  
18          ~~contract for 3 years subsequent to the expira-~~  
19          ~~tion of the contract.”;~~

20          ~~(c) RATES.—Subsection (d) of that section is amend-~~  
21          ~~ed by—~~

22                 ~~(1) striking “30 days after filing with the Com-~~  
23          ~~mission.” in the first sentence and inserting “21 cal-~~  
24          ~~endar days after publication.”;~~

1           (2) striking “less than 30” in the next sentence  
2           and inserting “less than 21 calendar”; and

3           (3) striking “publication and filing with the  
4           Commission.” in the last sentence and inserting  
5           “publication.”.

6           (d) MARINE TERMINAL OPERATOR SCHEDULES.—

7           Subsection (e) of that section is amended to read as fol-  
8           lows:

9           “(e) MARINE TERMINAL OPERATOR SCHEDULES.—

10          A marine terminal operator may make available to the  
11          public a schedule of rates, regulations, and practices, in-  
12          cluding limitations of liability for cargo loss or damage,  
13          pertaining to receiving, delivering, handling, or storing  
14          property at its marine terminal. Any such schedule made  
15          available to the public shall be enforceable as an implied  
16          contract, subject to section 10 of this Act, without proof  
17          of actual knowledge of its provisions.”.

18          (e) AUTOMATED TARIFF SYSTEM REQUIREMENTS;

19          FORM.—Subsection (f) of that section is amended to read  
20          as follows:

21          “(f) REGULATIONS.—The Commission shall by regu-  
22          lation prescribe the requirements for the accessibility and  
23          accuracy of automated tariff systems established under  
24          this section. The Commission may, after periodic review,  
25          prohibit the use of any automated tariff system that fails

1 to meet the requirements established under this section.  
 2 The Commission may not require a common carrier to  
 3 provide a remote terminal for access under subsection  
 4 (a)(2). The Commission shall by regulation prescribe the  
 5 form and manner in which marine terminal operator  
 6 schedules authorized by this section shall be published.”.

7 **SEC. 107. AUTOMATED TARIFF FILING AND INFORMATION**  
 8 **SYSTEM.**

9 Section 502 of the High Seas Driftnet Fisheries En-  
 10 forcement Act (46 U.S.C. App. 1707a) is repealed.

11 **SEC. 108. CONTROLLED CARRIERS.**

12 Section 9 of the Shipping Act of 1984 (46 U.S.C.  
 13 App. 1708) is amended by—

14 (1) striking “filed with the Commission” in the  
 15 first sentence of subsection (a) and inserting a  
 16 comma and “or charge or assess rates,”;

17 (2) striking “or maintain” in the first sentence  
 18 of subsection (a) and inserting “maintain, or en-  
 19 force”;

20 (3) striking “disapprove” in the third sentence  
 21 of subsection (a) and inserting “prohibit the publica-  
 22 tion or use of”; and

23 (4) striking “filed by a controlled carrier that  
 24 have been rejected, suspended, or disapproved by the  
 25 Commission” in the last sentence of subsection (a)

1 and inserting “that have been suspended or prohib-  
 2 ited by the Commission”;

3 (5) striking “may take into account appropriate  
 4 factors including, but not limited to, whether—” in  
 5 subsection (b) and inserting “shall take into account  
 6 whether the rates or charges which have been pub-  
 7 lished or assessed or which would result from the  
 8 pertinent classifications, rules, or regulations are  
 9 below a level which is fully compensatory to the con-  
 10 trolled carrier based upon that carrier’s actual costs  
 11 or upon its constructive costs. For purposes of the  
 12 preceding sentence, the term ‘constructive costs’  
 13 means the costs of another carrier, other than a con-  
 14 trolled carrier, operating similar vessels and equip-  
 15 ment in the same or a similar trade. The Commis-  
 16 sion may also take into account other appropriate  
 17 factors, including but not limited to, whether—”;

18 (6) striking paragraph (1) of subsection (b) and  
 19 redesignating paragraphs (2), (3), and (4) as para-  
 20 graphs (1), (2), and (3), respectively;

21 (7) striking “filed” each place it appears in  
 22 subsection (b) and inserting “published or assessed”;

23 (8) striking “filing with the Commission” in  
 24 subsection (c) and inserting “publication”;

1           (9) striking “DISAPPROVAL.—” in subsection  
 2           (d) and inserting “PROHIBITION OF RATES.—Within  
 3           120 days after the receipt of information requested  
 4           by the Commission under this section, the Commis-  
 5           sion shall determine whether the rates, charges, clas-  
 6           sifications, rules, or regulations of a controlled ear-  
 7           rier may be unjust and unreasonable.” ;

8           (10) striking “filed” in subsection (d) and in-  
 9           serting “published or assessed”;

10          (11) striking “may issue” in subsection (d) and  
 11          inserting “shall issue”;

12          (12) striking “disapproved.” in subsection (d)  
 13          and inserting “prohibited.”;

14          (15) striking “60” in subsection (d) and insert-  
 15          ing “30”;

16          (16) inserting “controlled” after “affected” in  
 17          subsection (d);

18          (17) striking “file” in subsection (d) and insert-  
 19          ing “publish”.

20          (18) striking “disapproval” in subsection (e)  
 21          and inserting “prohibition”;

22          (19) inserting “or” after the semicolon in sub-  
 23          section (f)(1);

24          (20) striking paragraphs (2), (3), and (4) of  
 25          subsection (f); and



1           ~~(21)~~ redesignating paragraph ~~(5)~~ of subsection  
 2           ~~(f)~~ as paragraph ~~(2)~~.

3 **SEC. 109. PROHIBITED ACTS.**

4           ~~(a)~~ Section ~~10(b)~~ of the Shipping Act of 1984 (~~46~~  
 5 U.S.C. App. 1709(b)) is amended by—

6           ~~(1)~~ striking paragraphs ~~(1)~~ through ~~(3)~~;

7           ~~(2)~~ redesignating paragraph ~~(4)~~ as paragraph  
 8           ~~(1)~~;

9           ~~(3)~~ inserting after paragraph ~~(1)~~, as redesign-  
 10          nated, the following:

11           “(2) provide service in the liner trade that—

12           “(A) is not in accordance with the rates  
 13           contained in a tariff published or a service con-  
 14           tract entered into under section 8 of this Act  
 15           unless excepted or exempted under section  
 16           8(a)(1) or 16 of this Act; or

17           “(B) is under a tariff or service contract  
 18           which has been suspended or prohibited by the  
 19           Commission under section 9 or 11a of this  
 20           Act;”;

21           ~~(4)~~ redesignating paragraphs ~~(5)~~ through ~~(8)~~ as  
 22          paragraphs ~~(3)~~ through ~~(6)~~, respectively;

23           ~~(5)~~ striking paragraph ~~(9)~~ and redesignating  
 24          paragraphs ~~(10)~~ through ~~(16)~~ as paragraphs ~~(7)~~  
 25          through ~~(13)~~, respectively;

1           (6) in paragraph (7), as redesignated, inserting  
2           “except for service contracts,” before “demand,”;

3           (7) in paragraph (9), as redesignated —

4                 (A) inserting “port, class or type of ship-  
5                 per, ocean freight forwarder,” after “locality,”;  
6                 and

7                 (B) inserting a comma and “except for  
8                 service contracts,” after “deal or”;

9           (8) striking “a non-vessel-operating common  
10           carrier” each place it appears in paragraphs (11)  
11           and (12), as redesignated, and inserting “an ocean  
12           freight forwarder”;

13           (9) striking “sections 8 and 23” in paragraphs  
14           (11) and (12), as redesignated, and inserting “sec-  
15           tions 8 and 19”;

16           (10) striking “paragraph (16)” in the matter  
17           appearing after paragraph (13), as redesignated,  
18           and inserting “paragraph (13)”;

19           (11) inserting “the Commission,” after “United  
20           States,” in such matter.

21           (b) Section 10(e)(5) of the Shipping Act of 1984 (46  
22           U.S.C. App. 1709(e)(5)) is amended by inserting “as de-  
23           fined by section 3(18)(A) of this Act,” before “or limit”.

24           (c) Section 10(d)(3) of the Shipping Act of 1984 (46  
25           U.S.C. App. 1709(d)(3)) is amended by striking “sub-

1 section (b)(11), (12), and (16)” and inserting “sub-  
 2 sections (b)(8), (9), and (13)”.

3 **SEC. 110. COMPLAINTS, INVESTIGATIONS, REPORTS, AND**  
 4 **REPARATIONS.**

5 Section 11(g) of the Shipping Act of 1984 (46 U.S.C.  
 6 App. 1710(g)) is amended by—

7 (1) striking “section 10(b)(5) or (7)” and in-  
 8 serting “section 10(b)(3) or (5)”; and

9 (2) striking “section 10(b)(6)(A) or (B)” and  
 10 inserting “section 10(b)(4)(A) or (B).”.

11 **SEC. 111. FOREIGN SHIPPING PRACTICES ACT OF 1988.**

12 Section 10002 of the Foreign Shipping Practices Act  
 13 of 1988 (46 U.S.C. App. 1710a) is amended by—

14 (1) by striking “non-vessel-operating common  
 15 carrier,” in paragraph (1) and inserting “ocean  
 16 freight forwarder,”

17 (2) by striking “non-vessel-operating common  
 18 carrier operations,” in paragraph (4);

19 (3) by inserting “and service contracts” after  
 20 “tariffs” each place it appears in subsection  
 21 (c)(1)(B);

22 (4) by striking “filed with the Commission” in  
 23 subsection (c)(1)(B); and

24 (5) by striking “section 13(b)(5) of the Ship-  
 25 ping Act of 1984 (46 App. U.S.C. 1712(b)(5))” in

1 subsection (h) and inserting “section 13(b)(6) of the  
 2 Shipping Act of 1984 (46 App. U.S.C. 1712(b)(6))”.

3 **SEC. 112. SUBPOENAS AND DISCOVERY.**

4 Section 12(a)(2) of the Shipping Act of 1984 (46  
 5 U.S.C. App. 1711 (a)(2)) is amended by striking “evi-  
 6 dence.” and inserting “evidence, including individual serv-  
 7 ice contracts described in section 8(c)(3) of this Act.”.

8 **SEC. 113. PENALTIES.**

9 (a) Section 13(a) of the Shipping Act of 1984 (46  
 10 U.S.C. App. 1712(a)) is amended by adding at the end  
 11 thereof the following: “The amount of any penalty im-  
 12 posed upon a common carrier under this subsection shall  
 13 constitute a lien upon the vessels of the common carrier  
 14 and any such vessel may be libeled therefor in the district  
 15 court of the United States for the district in which it may  
 16 be found.”.

17 (b) Section 13(b) of the Shipping Act of 1984 (46  
 18 U.S.C. App. 1712(b)) is amended by—

19 (1) striking “section 10(b)(1), (2), (3), (4), or  
 20 (8)” in paragraph (1) and inserting “section  
 21 10(b)(1), (2), or (6)”;

22 (2) by redesignating paragraphs (4), (5), and  
 23 (6) as paragraphs (5), (6), and (7), respectively;

24 (3) inserting before paragraph (5), as redesign-  
 25 nated, the following:

1           “(4) If the Commission finds, after notice and  
 2           an opportunity for a hearing, that a common carrier  
 3           has failed to supply information ordered to be pro-  
 4           duced or compelled by subpoena under section 12 of  
 5           this Act, the Commission may request that the Sec-  
 6           retary of the Treasury refuse or revoke any clear-  
 7           ance required for a vessel operated by that common  
 8           carrier. Upon request by the Commission, the Sec-  
 9           retary of the Treasury shall, with respect to the ves-  
 10          sel concerned, refuse or revoke any clearance re-  
 11          quired by section 4197 of the Revised Statutes of  
 12          the United States (46 U.S.C. App. 91).”;

13           (4) striking “paragraphs (1), (2), and (3)” in  
 14           paragraph (6), as redesignated, and inserting “para-  
 15           graphs (1), (2), (3), and (4)”.

16          (c) Section 13(f)(1) of the Shipping Act of 1984 (46  
 17          U.S.C. App. 1712(f)(1)) is amended by striking “or  
 18          (b)(4)” and inserting “or (b)(2)”.

19      **SEC. 114. REPORTS AND CERTIFICATES.**

20          Section 15 of the Shipping Act of 1984 (46 U.S.C.  
 21          App. 1714) is amended by—

22           (1) striking “and certificates” in the section  
 23           heading;

24           (2) striking “(a) REPORTS.—” in the sub-  
 25           section heading for subsection (a); and

1           ~~(3) striking subsection (b).~~

2   **SEC. 115. EXEMPTIONS.**

3           Section 16 of the Shipping Act of 1984 (46 U.S.C.  
4 App. 1715) is amended by striking “substantially impair  
5 effective regulation by the Commission, be unjustly dis-  
6 criminatory, result in substantial reduction in competition,  
7 or be detrimental to commerce.” and inserting “result in  
8 substantial reduction in competition or be detrimental to  
9 commerce.”.

10 **SEC. 116. AGENCY REPORTS AND ADVISORY COMMISSION.**

11          Section 18 of the Shipping Act of 1984 (46 U.S.C.  
12 App. 1717) is repealed.

13 **SEC. 117. OCEAN FREIGHT FORWARDERS.**

14          Section 19 of the Shipping Act of 1984 (46 U.S.C.  
15 App. 1718) is amended by—

16           (1) striking subsection (a) and inserting the fol-  
17          lowing:

18          “(a) LICENSE.—No person in the United States may  
19 act as an ocean freight forwarder unless that person holds  
20 a license issued by the Commission. The Commission shall  
21 issue a forwarder’s license to any person that the Commis-  
22 sion determines to be qualified by experience and char-  
23 acter to act as an ocean freight forwarder.”;

24           (2) redesignating subsections (b), (c), and (d)  
25          as subsections (c), (d), and (e), respectively;

1           ~~(3)~~ inserting after subsection (a) the following:

2           ~~“(b) FINANCIAL RESPONSIBILITY.—~~

3           ~~“(1) No person may act as an ocean freight for-~~  
 4           ~~warder unless that person furnishes a bond, proof of~~  
 5           ~~insurance, or other surety in a form and amount de-~~  
 6           ~~termined by the Commission to insure financial re-~~  
 7           ~~sponsibility that is issued by a surety company~~  
 8           ~~found acceptable by the Secretary of the Treasury.~~

9           ~~“(2) A bond, insurance, or other surety ob-~~  
 10          ~~tained pursuant to this section—~~

11           ~~“(A) shall be available to pay any judg-~~  
 12           ~~ment for damages against an ocean freight for-~~  
 13           ~~warder arising from its transportation-related~~  
 14           ~~activities under section 3(18) of this Act, or any~~  
 15           ~~order for reparation issued pursuant to section~~  
 16           ~~11 or 14 of this Act, or any penalty assessed~~  
 17           ~~pursuant to section 13 of this Act; and~~

18           ~~“(B) may be available to pay any claim~~  
 19           ~~against an ocean freight forwarder arising from~~  
 20           ~~its transportation-related activities under sec-~~  
 21           ~~tion 3(18) of this Act that is deemed valid by~~  
 22           ~~the surety company after providing the ocean~~  
 23           ~~freight forwarder the opportunity to address the~~  
 24           ~~validity of the claim.~~

1           ~~“(3) An ocean freight forwarder not domiciled~~  
 2           ~~in the United States shall designate a resident agent~~  
 3           ~~in the United States for receipt of service of judicial~~  
 4           ~~and administrative process, including subpoenas.”;~~

5           (4) striking “a bond in accordance with sub-  
 6           section (a)(2)” in subsection (e), as redesignated,  
 7           and inserting “a bond, proof of insurance, or other  
 8           surety in accordance with subsection (b)(1)”;

9           (5) striking “forwarder” in paragraph (1) of  
 10          subsection (e) and inserting “forwarder, as described  
 11          in section 3(18),”;

12          (6) striking “license” in paragraph (1) of sub-  
 13          section (e) and inserting “license, if required by sub-  
 14          section (a),”;

15          (7) striking paragraph (3) of subsection (e), as  
 16          redesignated, and redesignating paragraph (4) as  
 17          paragraph (3); and

18          (8) adding at the end of subsection (e), as re-  
 19          designated, the following:

20               ~~“(4) No conference or group of 2 or more ocean~~  
 21               ~~common carriers in the foreign commerce of the~~  
 22               ~~United States that is authorized to agree upon the~~  
 23               ~~level of compensation paid to an ocean freight for-~~  
 24               ~~warder, as defined in section 3(18)(A) of this Act,~~  
 25               ~~may—~~



1           “(A) deny to any member of the con-  
 2           ference or group the right, upon notice of not  
 3           more than 5 calendar days, to take independent  
 4           action on any level of compensation paid to an  
 5           ocean freight forwarder, as so defined; or

6           “(B) agree to limit the payment of com-  
 7           pensation to an ocean freight forwarder, as so  
 8           defined, to less than 1.25 percent of the aggre-  
 9           gate of all rates and charges which are applica-  
 10          ble under a tariff and which are assessed  
 11          against the cargo on which the forwarding serv-  
 12          ices are provided.”.

13 **SEC. 118. CONTRACTS, AGREEMENTS, AND LICENSES**  
 14 **UNDER PRIOR SHIPPING LEGISLATION.**

15          Section 20 of the Shipping Act of 1984 (46 U.S.C.  
 16 App. 1719) is amended by—

17           (1) striking subsection (d) and inserting the fol-  
 18          lowing:

19          “(d) **EFFECTS ON CERTAIN AGREEMENTS AND CON-**  
 20 **TRACTS.**—All agreements, contracts, modifications, and  
 21 exemptions previously issued, approved, or effective under  
 22 the Shipping Act, 1916, or the Shipping Act of 1984 shall  
 23 continue in force and effect as if issued or effective under  
 24 this Act, as amended by the Ocean Shipping Reform Act  
 25 of 1997, and all new agreements, contracts, and modifica-

1 tions to existing, pending, or new contracts or agreements  
 2 shall be considered under this Act, as amended by the  
 3 Ocean Shipping Reform Act of 1997.”;

4 (2) inserting the following at the end of sub-  
 5 section (e):

6 “(3) The Ocean Shipping Reform Act of 1997  
 7 shall not affect any suit—

8 “(A) filed before the effective date of that  
 9 Act; or

10 “(B) with respect to claims arising out of  
 11 conduct engaged in before the effective date of  
 12 that Act filed within 1 year after the effective  
 13 date of that Act.

14 “(4) Regulations issued by the Federal Mari-  
 15 time Commission shall remain in force and effect  
 16 where not inconsistent with this Act, as amended by  
 17 the Ocean Shipping Reform Act of 1997.”.

18 **SEC. 119. SURETY FOR NON-VESSEL-OPERATING COMMON**  
 19 **CARRIERS.**

20 Section 23 of the Shipping Act of 1984 (46 U.S.C.  
 21 App. 1721) is repealed.

1 **SEC. 120. REPLACEMENT OF FEDERAL MARITIME COMMIS-**  
 2 **SION WITH INTERMODAL TRANSPORTATION**  
 3 **BOARD.**

4 (a) IN GENERAL.—The Shipping Act of 1984 (46  
 5 U.S.C. App. 1701 et seq.) is amended by—

6 (1) striking “Federal Maritime Commission”  
 7 each place it appears, except in sections 7(a)(6) and  
 8 20, and inserting “Intermodal Transportation  
 9 Board”;

10 (2) striking “Commission” each place it ap-  
 11 pears (including chapter and section headings), ex-  
 12 cept in sections 7(a)(6) and 20, and inserting  
 13 “Board”; and

14 (3) striking “Commission’s” each place it ap-  
 15 pears and inserting “Board’s”.

16 (b) EFFECTIVE DATE.—The amendments made by  
 17 subsection (a) take effect on January 1, 1999.

18 **TITLE H—TRANSFER OF FUNC-**  
 19 **TIONS OF THE FEDERAL MAR-**  
 20 **ITIME COMMISSION TO THE**  
 21 **INTERMODAL TRANSPOR-**  
 22 **TATION BOARD**

23 **SEC. 201. TRANSFER TO THE INTERMODAL TRANSPOR-**  
 24 **TATION BOARD.**

25 (a) CHANGE OF NAME OF SURFACE TRANSPOR-  
 26 TATION BOARD TO INTERMODAL TRANSPORTATION

1 BOARD.—The ICC Termination Act of 1995 (Pub. L.  
2 104-88) is amended by striking “Surface Transportation  
3 Board” each place it appears and inserting “Intermodal  
4 Transportation Board”.

5 (b) FUNCTIONS OF THE FEDERAL MARITIME COM-  
6 MISSION.—All functions, powers and duties vested in the  
7 Federal Maritime Commission shall be administered by  
8 the Intermodal Transportation Board.

9 (c) REGULATIONS.—No later than January 1, 1998,  
10 the Federal Maritime Commission, in consultation with  
11 the Surface Transportation Board, shall prescribe final  
12 regulations to implement the changes made by this Act.

13 (d) AUTHORIZATION OF APPROPRIATIONS FOR FIS-  
14 CAL YEAR 1998.—There is authorized to be appropriated  
15 to the Federal Maritime Commission, \$15,000,000 for fis-  
16 cal year 1998.

17 (e) COMMISSIONERS OF THE FEDERAL MARITIME  
18 COMMISSION.—Subject to the political party restrictions  
19 of section 701(b) of title 49, United States Code, the 2  
20 Commissioners of the Federal Maritime Commission  
21 whose terms have the latest expiration dates shall become  
22 members of the Intermodal Transportation Board. Of the  
23 2 members of the Intermodal Transportation Board first  
24 appointed under this subsection, the one with the first ex-  
25 piring term (as a member of the Federal Maritime Com-

1 mission) shall serve for a term ending December 31, 2000,  
 2 and the other shall serve for a term ending December 31,  
 3 2002. Effective January 1, 1999, the right of any Federal  
 4 Maritime Commission commissioner other than those des-  
 5 ignated under this subsection to remain in office is termi-  
 6 nated.

7 (f) MEMBERSHIP OF THE INTERMODAL TRANSPOR-  
 8 TATION BOARD.—

9 (1) NUMBER OF MEMBERS.—Section 701(b)(1)  
 10 of title 49, United States Code, is amended by—

11 (A) striking “3 members” and inserting “5  
 12 members”; and

13 (B) striking “2 members” and inserting “3  
 14 members”.

15 (2) QUALIFICATIONS.—Section 701(b)(2) of  
 16 title 49, United States Code, is amended by insert-  
 17 ing after “sector.” the following: “Effective January  
 18 1, 1999, at least 2 members shall be individuals  
 19 with—

20 “(A) professional standing and dem-  
 21 onstrated knowledge in the fields of maritime  
 22 transportation or its regulation; or

23 “(B) professional or business experience in  
 24 the maritime transportation private sector, in-

1 including marine terminal or public port oper-  
 2 ation.”.

3 ~~(g)~~ EFFECTIVE DATE.—The amendments made by  
 4 this section shall take effect on January 1, 1999, except  
 5 as otherwise provided.

## 6 **TITLE III—AMENDMENTS TO** 7 **OTHER SHIPPING AND MARI-** 8 **TIME LAWS**

### 9 **SEC. 301. AMENDMENTS TO SECTION 19 OF THE MERCHANT** 10 **MARINE ACT, 1920.**

11 (a) IN GENERAL.—Section 19 of the Merchant Ma-  
 12 rine Act, 1920 (46 U.S.C. App. 876) is amended by—

13 (1) striking “Federal Maritime Commission”  
 14 each place it appears and inserting “Intermodal  
 15 Transportation Board”;

16 (2) inserting “ocean freight” after “solicita-  
 17 tions,” in subsection (1)(b);

18 (3) striking “non-vessel-operating common ear-  
 19 rier operations,” in subsection (1)(b);

20 (4) striking “methods or practices” and insert-  
 21 ing “methods, pricing practices, or other practices”  
 22 in subsection (1)(b);

23 (5) striking “tariffs filed with the Commission”  
 24 in subsection (9)(b) and inserting “tariffs and serv-  
 25 ice contracts”; and

1           (6) striking “Commission” each place it ap-  
 2       pears (including the heading) and inserting  
 3       “Board”.

4       (b) ~~SPECIAL EFFECTIVE DATE.~~—The amendments  
 5       made by subsection (a) take effect on the date of enact-  
 6       ment of this Act, except that the amendments made by  
 7       paragraphs (1) and (6) of that subsection take effect on  
 8       January 1, 1999.

9       **SEC. 302. TECHNICAL CORRECTIONS.**

10       (a) ~~PUBLIC LAW 89-777.~~—The Act of November 6,  
 11       1966, (Public Law 89-777; 80 Stat. 1356; 46 U.S.C. App.  
 12       817 et seq.) is amended by—

13           (1) striking “Federal Maritime Commission”  
 14       each place it appears and inserting “Intermodal  
 15       Transportation Board”; and

16           (2) striking “Commission” each place it ap-  
 17       pears and inserting “Board”.

18       (b) ~~TITLE 28, UNITED STATES CODE, AND CROSS~~  
 19       ~~REFERENCE.~~—

20           (1) Section 2341 of title 28, United States  
 21       Code, is amended by—

22           (A) striking “Commission, the Federal  
 23       Maritime Commission,” in paragraph (3)(A);  
 24       and

1           (B) striking “Surface” in paragraph  
2           (3)(E) and inserting “Intermodal”.

3           (2) Section 2342 of such title is amended by—

4           (A) striking paragraph (3) and inserting  
5           the following:

6           “(3) all rules, regulations, or final orders of the  
7           Secretary of Transportation issued pursuant to sec-  
8           tion 2, 9, 37, 41, or 43 of the Shipping Act, 1916  
9           (46 U.S.C. App. 802, 803, 808, 835, 839, or 841a)  
10          or pursuant to part B or C of subtitle IV of title 49  
11          (49 U.S.C. 13101 et seq. or 15101 et seq.);” and

12          (B) striking paragraph (5) and inserting  
13          the following:

14          “(5) all rules, regulations, or final orders of the  
15          Intermodal Transportation Board—

16               “(A) made reviewable by section 2321 of  
17               this title; or

18               “(B) pursuant to—

19                   “(i) section 19 of the Merchant Ma-  
20                   rine Act, 1920 (46 U.S.C. App. 876);

21                   “(ii) section 14 or 17 of the Shipping  
22                   Act of 1984 (46 U.S.C. App. 1713 or  
23                   1716); or



1                   “~~(iii) section 2(d) or 3(d) of the Act~~  
 2                   of November 6, 1966 (46 U.S.C. App.  
 3                   817d(d) or 817e(d));”.

4           ~~(e) FOREIGN SHIPPING PRACTICES ACT OF 1988.—~~  
 5   Section 10002(i) of the Foreign Shipping Practices Act  
 6   of 1988 (46 U.S.C. 1710a(i)) is amended by striking  
 7   “2342(3)(B)” and inserting “2342(5)(B)”.

8           ~~(d) TARIFF ACT OF 1930.—Section 641(i) of the~~  
 9   Tariff Act of 1930 (19 U.S.C. 1641) is repealed.

10          ~~(e) EFFECTIVE DATES.—~~

11               ~~(1) The amendments made by subsections (a),~~  
 12               ~~(b), and (c) take effect January 1, 1999.~~

13               ~~(2) The repeal made by subsection (d) takes ef-~~  
 14               ~~fect March 1, 1998.~~

15   **SECTION 1. SHORT TITLE.**

16           *This Act may be cited as the “Ocean Shipping Reform*  
 17   *Act of 1997”.*

18   **SEC. 2. EFFECTIVE DATE.**

19           *Except as otherwise expressly provided in this Act, this*  
 20   *Act and the amendments made by this Act take effect on*  
 21   *March 1, 1998.*

1     **TITLE I—AMENDMENTS TO THE**  
 2             **SHIPPING ACT OF 1984**

3     **SEC. 101. PURPOSE.**

4             *Section 2 of the Shipping Act of 1984 (46 U.S.C. App.*  
 5     *1701) is amended by—*

6                 (1) *striking “and” after the semicolon in para-*  
 7     *graph (2);*

8                 (2) *striking “needs.” in paragraph (3) and in-*  
 9     *serting “needs; and”;*

10                (3) *adding at the end thereof the following:*

11                   “(4) *to promote the growth and development of*  
 12     *United States exports through competitive and effi-*  
 13     *cient ocean transportation and by placing a greater*  
 14     *reliance on the marketplace.”.*

15     **SEC. 102. DEFINITIONS.**

16             (a) *IN GENERAL.—Section 3 of the Shipping Act of*  
 17     *1984 (46 U.S.C. App. 1702) is amended by—*

18                 (1) *striking paragraph (5) and redesignating*  
 19     *paragraph (4) as paragraph (5);*

20                 (2) *inserting after paragraph (3) the following:*

21                   “(4) *‘Board’ means the Intermodal Transpor-*  
 22     *tation Board.”;*

23                 (3) *striking “the government under whose reg-*  
 24     *istry the vessels of the carrier operate;” in paragraph*  
 25     *(8) and inserting “a government;”;*

1           (4) *striking paragraph (9) and inserting the fol-*  
 2           *lowing:*

3           “(9) ‘deferred rebate’ means a return by a com-  
 4           mon carrier of any portion of freight money to a  
 5           shipper as a consideration for that shipper giving all,  
 6           or any portion, of its shipments to that or any other  
 7           common carrier over a fixed period of time, the pay-  
 8           ment of which is deferred beyond the completion of  
 9           service for which it is paid, and is made only if the  
 10          shipper has agreed to make a further shipment or  
 11          shipments with that or any other common carrier.”;

12          (5) *striking paragraph (10) and redesignating*  
 13          *paragraphs (11) through (27) as paragraphs (10)*  
 14          *through (26);*

15          (6) *striking “in an unfinished or semifinished*  
 16          *state that require special handling moving in lot sizes*  
 17          *too large for a container,” in paragraph (10), as re-*  
 18          *designated;*

19          (7) *striking “paper board in rolls, and paper in*  
 20          *rolls.” in paragraph (10) as redesignated and insert-*  
 21          *ing “paper and paper board in rolls or in pallet or*  
 22          *skid-sized sheets.”;*

23          (8) *striking “conference, other than a service con-*  
 24          *tract or contract based upon time-volume rates,” in*

1       *paragraph (13) as redesignated and inserting “agree-*  
 2       *ment”;*

3               *(9) striking “conference.” in paragraph (13) as*  
 4       *redesignated and inserting “agreement and the con-*  
 5       *tract provides for a deferred rebate arrangement.”;*

6               *(10) by striking “carrier.” in paragraph (14) as*  
 7       *redesignated and inserting “carrier, or in connection*  
 8       *with a common carrier and a water carrier subject to*  
 9       *subchapter II of chapter 135 of title 49, United States*  
 10       *Code.”.*

11               *(11) striking paragraph (16) as redesignated*  
 12       *and redesignating paragraphs (17) through (26) as*  
 13       *redesignated as paragraphs (16) through (25), respec-*  
 14       *tively;*

15               *(12) striking paragraph (17), as redesignated,*  
 16       *and inserting the following:*

17               *“(17) ‘ocean transportation intermediary’ means*  
 18       *an ocean freight forwarder or a non-vessel-operating*  
 19       *common carrier. For purposes of this paragraph, the*  
 20       *term*

21                       *“(A) ‘ocean freight forwarder’ means a per-*  
 22       *son that—*

23                               *“(i) in the United States, dispatches*  
 24                               *shipments from the United States via a*  
 25                               *common carrier and books or otherwise ar-*

1                    *ranges space for those shipments on behalf*  
 2                    *of shippers; and*

3                    *“(ii) processes the documentation or*  
 4                    *performs related activities incident to those*  
 5                    *shipments; and*

6                    *“(B) ‘non-vessel-operating common carrier’*  
 7                    *means a common carrier that does not operate*  
 8                    *the vessels by which the ocean transportation is*  
 9                    *provided, and is a shipper in its relationship*  
 10                   *with an ocean common carrier.”;*

11                   *(13) striking paragraph (19), as redesignated*  
 12                   *and inserting the following:*

13                   *“(19) ‘service contract’ means a written contract,*  
 14                   *other than a bill of lading or a receipt, between one*  
 15                   *or more shippers and an individual common carrier*  
 16                   *or an agreement between or among ocean common*  
 17                   *carriers in which the shipper or shippers makes a*  
 18                   *commitment to provide a certain volume or portion*  
 19                   *of cargo over a fixed time period, and the common*  
 20                   *carrier or the agreement commits to a certain rate or*  
 21                   *rate schedule and a defined service level, such as as-*  
 22                   *ured space, transit time, port rotation, or similar*  
 23                   *service features. The contract may also specify provi-*  
 24                   *sions in the event of nonperformance on the part of*  
 25                   *any party.”;*

1           (14) striking paragraph (21), as redesignated,  
2           and inserting the following:

3           “(21) ‘shipper’ means—

4                   “(A) a cargo owner;

5                   “(B) the person for whose account the ocean  
6           transportation is provided;

7                   “(C) the person to whom delivery is to be  
8           made;

9                   “(D) a shippers’ association; or

10                   “(E) an ocean transportation intermediary,  
11           as defined in paragraph (17)(B) of this section,  
12           that accepts responsibility for payment of all  
13           charges applicable under the tariff or service con-  
14           tract.”.

15       (b) *SPECIAL EFFECTIVE DATE.*—The amendments  
16       made by subsection (a) take effect on the date of enactment,  
17       except that the amendments made by paragraphs (1) and  
18       (2) take effect on January 1, 1999.

19       **SEC. 103. AGREEMENTS WITHIN THE SCOPE OF THE ACT.**

20       (a) *OCEAN COMMON CARRIERS.*—Section 4(a) of the  
21       Shipping Act of 1984 (46 U.S.C. App. 1703(a)) is amended  
22       by—

23               (1) striking “operators or non-vessel-operating  
24       common carriers;” in paragraph (5) and inserting  
25       “operators;”; and

1           (2) *striking “and” in paragraph (6) and insert-*  
 2           *ing “or”.*

3           (b) *MARINE TERMINAL OPERATORS.*—Section 4(b) of  
 4 *that Act (46 U.S.C. App. 1703(b)) is amended by—*

5           (1) *striking “(to the extent the agreements in-*  
 6           *volve ocean transportation in the foreign commerce of*  
 7           *the United States)”*; and

8           (2) *striking “arrangements.” in paragraph (2)*  
 9           *and inserting “arrangements, to the extent that such*  
 10           *agreements involve ocean transportation in the for-*  
 11           *ign commerce of the United States.”.*

12 **SEC. 104. AGREEMENTS.**

13           (a) *IN GENERAL.*—Section 5(b) of the Shipping Act  
 14 *of 1984 (46 U.S.C. App. 1704(b)) is amended by—*

15           (1) *striking “and” at the end of paragraph (7);*

16           (2) *striking paragraph (8) and inserting the fol-*  
 17           *lowing:*

18           “(8) *provide that any member of the conference*  
 19           *may take independent action on any rate or service*  
 20           *item upon not more than 5 calendar days’ notice to*  
 21           *the conference and that, except for exempt commod-*  
 22           *ities not published in the conference tariff, the con-*  
 23           *ference will include the new rate or service item in its*  
 24           *tariff for use by that member, effective no later than*  
 25           *5 calendar days after receipt of the notice, and by*

1        *any other member that notifies the conference that it*  
 2        *elects to adopt the independent rate or service item on*  
 3        *or after its effective date, in lieu of the existing con-*  
 4        *ference tariff provision for that rate or service item;*  
 5        *and*

6                *“(9) prohibit the agreement from—*

7                        *“(A) prohibiting or restricting the members*  
 8                        *of the agreement from engaging in negotiations*  
 9                        *for service contracts with 1 or more shippers;*

10                      *“(B) requiring a member of the agreement*  
 11                      *to disclose a negotiation on a service contract, or*  
 12                      *the terms and conditions of a service contract,*  
 13                      *other than those specified by section 8(c)(3) of*  
 14                      *this Act; and*

15                      *“(C) issuing mandatory rules or require-*  
 16                      *ments affecting an agreement member’s right to*  
 17                      *negotiate and enter into service contracts.*

18 *An agreement may issue voluntary guidelines relating to*  
 19 *the terms and procedures of agreement members’ service*  
 20 *contracts if the guidelines explicitly state the right of mem-*  
 21 *bers of the agreement not to follow the guidelines and the*  
 22 *guidelines are filed with the agreement.”.*

23        *(b) APPLICATION.—Section 5(d) of that Act (46 U.S.C.*  
 24 *App. 1704(d)) is amended by striking “this Act, the Ship-*



1 *ping Act, 1916, and the Intercoastal Shipping Act, 1933,”*  
 2 *and inserting “this Act and the Shipping Act, 1916,”.*

3 **SEC. 105. EXEMPTION FROM ANTITRUST LAWS.**

4 (a) *IN GENERAL.*—Section 7 of the Shipping Act of  
 5 1984 (46 U.S.C. App. 1706) is amended by—

6 (1) *inserting “or publication” in paragraph (2)*  
 7 *of subsection (a) after “filing”;*

8 (2) *inserting “Federal Maritime” before “Com-*  
 9 *mission” in paragraph (6) of subsection (a);*

10 (3) *striking “or” at the end of subsection (b)(2);*

11 (4) *striking “States.” at the end of subsection*  
 12 *(b)(3) and inserting “States; or”; and*

13 (5) *adding at the end of subsection (b) the follow-*  
 14 *ing:*

15 “(4) *to any loyalty contract.*”.

16 (b) *SPECIAL EFFECTIVE DATE.*—The amendments  
 17 made by subsection (a) take effect on the date of enactment  
 18 except the amendment made by paragraph (2) of subsection  
 19 (a) takes effect on January 1, 1999.

20 **SEC. 106. TARIFFS.**

21 (a) *IN GENERAL.*—Section 8(a) of the Shipping Act  
 22 of 1984 (46 U.S.C. App. 1707(a)) is amended by—

23 (1) *inserting “new assembled motor vehicles,”*  
 24 *after “scrap,” in paragraph (1);*

1           (2) *striking “file with the Commission, and” in*  
 2     *paragraph (1);*

3           (3) *striking “inspection,” in paragraph (1) and*  
 4     *inserting “inspection in an automated tariff system,”;*

5           (4) *striking “tariff filings” in paragraph (1) and*  
 6     *inserting “tariffs”;*

7           (5) *striking “and” at the end of paragraph*  
 8     *(1)(D);*

9           (6) *striking “loyalty contract,” in paragraph*  
 10    *(1)(E);*

11          (7) *striking “agreement.” in paragraph (1)(E)*  
 12    *and inserting “agreement; and”;*

13          (8) *adding at the end of paragraph (1) the fol-*  
 14    *lowing:*

15                 *“(F) include copies of any loyalty contract,*  
 16                 *omitting the shipper’s name.”; and*

17          (9) *striking paragraph (2) and inserting the fol-*  
 18    *lowing:*

19                 *“(2) Tariffs shall be made available electroni-*  
 20                 *cally to any person, without time, quantity, or other*  
 21                 *limitation, through appropriate access from remote*  
 22                 *locations, and a reasonable charge may be assessed for*  
 23                 *such access. No charge may be assessed a Federal*  
 24                 *agency for such access.”.*

1       (b) *SERVICE CONTRACTS*.—Subsection (c) of that sec-  
 2       tion is amended to read as follows:

3       “(c) *SERVICE CONTRACTS*.—

4               “(1) *IN GENERAL*.—An individual common car-  
 5       rier or an agreement between or among ocean com-  
 6       mon carriers may enter into a service contract with  
 7       one or more shippers subject to the requirements of  
 8       this Act. The exclusive remedy for a breach of a con-  
 9       tract entered into under this subsection shall be an  
 10      action in an appropriate court, unless the parties oth-  
 11      erwise agree. In no case may the contract dispute res-  
 12      olution forum be affiliated with, or controlled by, any  
 13      party to the contract.

14              “(2) *FILING REQUIREMENTS*.—Except for service  
 15      contracts dealing with bulk cargo, forest products, re-  
 16      cycled metal scrap, new assembled motor vehicles,  
 17      waste paper, or paper waste, each contract entered  
 18      into under this subsection by an individual common  
 19      carrier or an agreement shall be filed confidentially  
 20      with the Commission. Each service contract shall in-  
 21      clude the following essential terms—

22                      “(A) the origin and destination port ranges;

23                      “(B) the origin and destination geographic  
 24      areas, in the case of through intermodal move-  
 25      ments;

1                   “(C) *the commodity or commodities in-*  
2                   *involved;*

3                   “(D) *the minimum volume or portion;*

4                   “(E) *the line-haul rate;*

5                   “(F) *the duration;*

6                   “(G) *service commitments; and*

7                   “(H) *the liquidated damages for non-*  
8                   *performance, if any.*

9                   “(3) *PUBLICATION OF CERTAIN ESSENTIAL*  
10                  *TERMS.—When a service contract is filed confiden-*  
11                  *tially with the Commission, a concise statement of the*  
12                  *terms described in paragraphs (2)(C), (D), and (F)*  
13                  *and the United States port range shall be published*  
14                  *and made available to the public in tariff format.*

15                  “(4) *DISCLOSURE OF CERTAIN UNPUBLISHED*  
16                  *TERMS.—A party to a collective-bargaining agree-*  
17                  *ment may petition the Commission for the disclosure*  
18                  *of any service contract terms not required to be pub-*  
19                  *lished by paragraph (3) which that party considers to*  
20                  *be in violation of that agreement. The petition shall*  
21                  *include evidence demonstrating that*

22                  “(A) *a specific ocean common carrier is a*  
23                  *party to a collective-bargaining agreement with*  
24                  *the petitioner;*

1           “(B) the ocean common carrier may be vio-  
 2           lating the terms and conditions of that agree-  
 3           ment; and

4           “(C) the alleged violation involves the mo-  
 5           ment of cargo subject to this Act.

6           “(5) ACTION BY COMMISSION.—The Commission,  
 7           after reviewing a petition under paragraph (4), the  
 8           evidence provided with the petition, and the filed  
 9           service contracts of the carrier named in the petition,  
 10          may disclose to the petitioner only such unpublished  
 11          terms of that carrier’s service contracts that the Com-  
 12          mission reasonably believes may constitute a violation  
 13          of the collective-bargaining agreement. The Commis-  
 14          sion may not disclose any unpublished service con-  
 15          tract terms with respect to a collective-bargaining  
 16          agreement term or condition determined by the Com-  
 17          mission to be in violation of this Act.”.

18          (c) RATES.—Subsection (d) of that section is amended  
 19          by—

20               (1) striking “30 days after filing with the Com-  
 21               mission.” in the first sentence and inserting “30 cal-  
 22               endar days after publication.”;

23               (2) inserting “calendar” after “30” in the next  
 24               sentence; and

1           (3) striking “publication and filing with the  
2       Commission.” in the last sentence and inserting  
3       “publication.”.

4       (d) *MARINE TERMINAL OPERATOR SCHEDULES.*—  
5       Subsection (e) of that section is amended to read as follows:  
6       “(e) *MARINE TERMINAL OPERATOR SCHEDULES.*—A  
7       marine terminal operator may make available to the public,  
8       subject to section 10(d) of this Act, a schedule of rates, regu-  
9       lations, and practices pertaining to receiving, delivering,  
10      handling, or storing property at its marine terminal. Any  
11      such schedule made available to the public shall be enforce-  
12      able by an appropriate court as an implied contract with-  
13      out proof of actual knowledge of its provisions.”.

14      (e) *AUTOMATED TARIFF SYSTEM REQUIREMENTS;*  
15      *FORM.*—Subsection (f) of that section is amended to read  
16      as follows:

17      “(f) *REGULATIONS.*—The Commission shall by regula-  
18      tion prescribe the requirements for the accessibility and ac-  
19      curacy of automated tariff systems established under this  
20      section. The Commission may, after periodic review, pro-  
21      hibit the use of any automated tariff system that fails to  
22      meet the requirements established under this section. The  
23      Commission may not require a common carrier to provide  
24      a remote terminal for access under subsection (a)(2). The  
25      Commission shall by regulation prescribe the form and

1 *manner in which marine terminal operator schedules au-*  
 2 *thorized by this section shall be published.”.*

3 **SEC. 107. AUTOMATED TARIFF FILING AND INFORMATION**  
 4 **SYSTEM.**

5 *Section 502 of the High Seas Driftnet Fisheries En-*  
 6 *forcement Act (46 U.S.C. App. 1707a) is repealed.*

7 **SEC. 108. CONTROLLED CARRIERS.**

8 *Section 9 of the Shipping Act of 1984 (46 U.S.C. App.*  
 9 *1708) is amended by—*

10 *(1) striking “service contracts filed with the*  
 11 *Commission” in the first sentence of subsection (a)*  
 12 *and inserting “service contracts, or charge or assess*  
 13 *rates,”;*

14 *(2) striking “or maintain” in the first sentence*  
 15 *of subsection (a) and inserting “maintain, or en-*  
 16 *force”;*

17 *(3) striking “disapprove” in the third sentence of*  
 18 *subsection (a) and inserting “prohibit the publication*  
 19 *or use of”; and*

20 *(4) striking “filed by a controlled carrier that*  
 21 *have been rejected, suspended, or disapproved by the*  
 22 *Commission” in the last sentence of subsection (a)*  
 23 *and inserting “that have been suspended or prohibited*  
 24 *by the Commission”;*

1           (5) striking “may take into account appropriate  
 2       factors including, but not limited to, whether—” in  
 3       subsection (b) and inserting “shall take into account  
 4       whether the rates or charges which have been pub-  
 5       lished or assessed or which would result from the per-  
 6       tinent classifications, rules, or regulations are below  
 7       a level which is fully compensatory to the controlled  
 8       carrier based upon that carrier’s actual costs or upon  
 9       its constructive costs. For purposes of the preceding  
 10      sentence, the term ‘constructive costs’ means the costs  
 11      of another carrier, other than a controlled carrier, op-  
 12      erating similar vessels and equipment in the same or  
 13      a similar trade. The Commission may also take into  
 14      account other appropriate factors, including but not  
 15      limited to, whether—”;

16           (6) striking paragraph (1) of subsection (b) and  
 17      redesignating paragraphs (2), (3), and (4) as para-  
 18      graphs (1), (2), and (3), respectively;

19           (7) striking “filed” in paragraph (1) as redesign-  
 20      ated and inserting “published or assessed”;

21           (8) striking “filing with the Commission.” in  
 22      subsection (c) and inserting “publication.”;

23           (9) striking “DISAPPROVAL OF RATES.—” in  
 24      subsection (d) and inserting “PROHIBITION OF  
 25      RATES.—Within 120 days after the receipt of infor-



1        *mation requested by the Commission under this sec-*  
 2        *tion, the Commission shall determine whether the*  
 3        *rates, charges, classifications, rules, or regulations of*  
 4        *a controlled carrier may be unjust and unreason-*  
 5        *able.”;*

6                *(10) striking “filed” in subsection (d) and insert-*  
 7        *ing “published or assessed”;*

8                *(11) striking “may issue” in subsection (d) and*  
 9        *inserting “shall issue”;*

10               *(12) striking “disapproved.” in subsection (d)*  
 11        *and inserting “prohibited.”;*

12               *(15) striking “60” in subsection (d) and insert-*  
 13        *ing “30”;*

14               *(16) inserting “controlled” after “affected” in*  
 15        *subsection (d);*

16               *(17) striking “file” in subsection (d) and insert-*  
 17        *ing “publish”.*

18               *(18) striking “disapproval” in subsection (e) and*  
 19        *inserting “prohibition”;*

20               *(19) inserting “or” after the semicolon in sub-*  
 21        *section (f)(1);*

22               *(20) striking paragraphs (2), (3), and (4) of sub-*  
 23        *section (f); and*

24               *(21) redesignating paragraph (5) of subsection*  
 25        *(f) as paragraph (2).*

1 **SEC. 109. PROHIBITED ACTS.**

2       (a) *Section 10(b) of the Shipping Act of 1984 (46*  
 3 *U.S.C. App. 1709(b)) is amended by—*

4               *(1) striking paragraphs (1) through (3);*

5               *(2) redesignating paragraph (4) as paragraph*  
 6 *(1);*

7               *(3) inserting after paragraph (1), as redesign-*  
 8 *ated, the following:*

9               *“(2) provide services, facilities, or privileges,*  
 10 *other than in accordance with the rates or terms in*  
 11 *its tariffs or service contracts in effect when the serv-*  
 12 *ice was provided;”;*

13               *(4) redesignating paragraphs (5) and (6) as*  
 14 *paragraphs (3) and (4), respectively;*

15               *(5) striking “except for service contracts,” in*  
 16 *paragraph (4), as redesignated, and inserting “for*  
 17 *service pursuant to a tariff;”;*

18               *(6) striking “rates;” in paragraph (4), as redesi-*  
 19 *gnated, and inserting “rates or charges;”;*

20               *(7) inserting “(5) for service pursuant to a serv-*  
 21 *ice contract, engage in any unfair or unjustly dis-*  
 22 *criminatory practice in the matter of rates or charges*  
 23 *with respect to any location, port, class or type of*  
 24 *shipper or ocean transportation intermediary, or de-*  
 25 *scription of traffic;” after paragraph (4);*

1           (8) redesignating paragraphs (7) and (8) as  
2           paragraphs (6) and (7), respectively;

3           (9) striking paragraph (6) as redesignated and  
4           inserting the following:

5           “(6) use a vessel in a particular trade to drive  
6           another ocean common carrier out of that trade;”;

7           (10) striking paragraphs (9) through (13) and  
8           inserting the following:

9           “(8) for service pursuant to a tariff, give any  
10          undue or unreasonable preference or advantage or im-  
11          pose any undue or unreasonable prejudice or dis-  
12          advantage;

13          “(9) for service pursuant to a service contract,  
14          give any undue or unreasonable preference or advan-  
15          tage or impose any undue or unreasonable prejudice  
16          or disadvantage with respect to any location, port,  
17          class or type of shipper or ocean transportation  
18          intermediary, or description of traffic;

19          “(10) unreasonably refuse to deal or negotiate;”;

20          (10) redesignating paragraphs (14), (15), and  
21          (16) as paragraphs (11), (12), and (13), respectively;

22          (11) striking “a non-vessel-operating common  
23          carrier” in paragraphs (11) and (12) as redesignated  
24          and inserting “an ocean transportation  
25          intermediary”;

1           (12) striking “sections 8 and 23” in paragraphs  
 2           (11) and (12) as redesignated and inserting “sections  
 3           8 and 19”;

4           (13) striking “or in which an ocean transpor-  
 5           tation intermediary is listed as an affiliate” in para-  
 6           graph (11), as redesignated;

7           (14) striking “Act;” in paragraph (12), as redes-  
 8           ignated, and inserting “Act, or with an affiliate of  
 9           such ocean transportation intermediary;”

10          (15) striking “paragraph (16)” in the matter ap-  
 11          pearing after paragraph (13), as redesignated, and  
 12          inserting “paragraph (13)”; and

13          (16) inserting “the Commission,” after “United  
 14          States,” in such matter.

15          (b) Section 10(c)(5) of the Shipping Act of 1984 (46  
 16          U.S.C. App. 1709(c)(5)) is amended by striking “freight  
 17          forwarder” and inserting “transportation intermediary, as  
 18          defined by section 3(17)(A) of this Act,”.

19          (c) Section 10(d) of the Shipping Act of 1984 (46  
 20          U.S.C. App. 1709(d)) is amended by—

21               (1) striking “freight forwarders,” and inserting  
 22               “transportation intermediaries,”;

23               (2) striking “freight forwarder,” in paragraph  
 24               (1) and inserting “transportation intermediary,”;

1           (3) striking “subsection (b)(11), (12), and (16)”  
 2           and inserting “subsections (b) (8), (9), (10), and  
 3           (13)”; and

4           (4) adding at the end thereof the following:

5           “(4) The prohibition in subsection (b)(13) of this  
 6           section applies to ocean transportation intermediaries  
 7           as defined by section 3(17)(A) of this Act.”.

8   **SEC. 110. COMPLAINTS, INVESTIGATIONS, REPORTS, AND**  
 9           **REPARATIONS.**

10          Section 11(g) of the Shipping Act of 1984 (46 U.S.C.  
 11   App. 1710(g)) is amended by—

12           (1) striking “section 10(b)(5) or (7)” and insert-  
 13           ing “section 10(b)(3) or (6)”; and

14           (2) striking “section 10(b)(6)(A) or (B)” and in-  
 15           serting “section 10(b)(4)(A) or (B).”.

16   **SEC. 111. FOREIGN SHIPPING PRACTICES ACT OF 1988.**

17          Section 10002 of the Foreign Shipping Practices Act  
 18   of 1988 (46 U.S.C. App. 1710a) is amended by—

19           (1) striking “ ‘non-vessel-operating common car-  
 20           rier’, ” in subsection (a)(1) and inserting “ ‘ocean  
 21           transportation intermediary’, ”;

22           (2) striking “forwarding and” in subsection  
 23           (a)(4);

1           (3) striking “non-vessel-operating common car-  
 2           rier” in subsection (a)(4) and inserting “ocean trans-  
 3           portation intermediary services and”;

4           (4) striking “freight forwarder,” in subsections  
 5           (c)(1) and (d)(1) and inserting “transportation  
 6           intermediary,”;

7           (5) striking “filed with the Commission,” in sub-  
 8           section (e)(1)(B) and inserting “and service con-  
 9           tracts,”;

10          (6) inserting “and service contracts” after “tar-  
 11          iffs” the second place it appears in subsection  
 12          (e)(1)(B); and

13          (7) striking “(b)(5)” each place it appears in  
 14          subsection (h) and inserting “(b)(6)”.

15 **SEC. 112. PENALTIES.**

16          (a) Section 13(a) of the Shipping Act of 1984 (46  
 17 U.S.C. App. 1712(a)) is amended by adding at the end  
 18 thereof the following: “The amount of any penalty imposed  
 19 upon a common carrier under this subsection shall con-  
 20 stitute a lien upon the vessels of the common carrier and  
 21 any such vessel may be libeled therefore in the district court  
 22 of the United States for the district in which it may be  
 23 found.”.

24          (b) Section 13(b) of the Shipping Act of 1984 (46  
 25 U.S.C. App. 1712(b)) is amended by—

1           (1) striking “section 10(b)(1), (2), (3), (4), or  
2           (8)” in paragraph (1) and inserting “section  
3           10(b)(1), (2), or (7)”;

4           (2) by redesignating paragraphs (4), (5), and (6)  
5           as paragraphs (5), (6), and (7), respectively;

6           (3) inserting before paragraph (5), as redesign-  
7           ated, the following:

8           “(4) If the Commission finds, after notice and an  
9           opportunity for a hearing, that a common carrier has  
10          failed to supply information ordered to be produced  
11          or compelled by subpoena under section 12 of this Act,  
12          the Commission may request that the Secretary of the  
13          Treasury refuse or revoke any clearance required for  
14          a vessel operated by that common carrier. Upon re-  
15          quest by the Commission, the Secretary of the Treas-  
16          ury shall, with respect to the vessel concerned, refuse  
17          or revoke any clearance required by section 4197 of  
18          the Revised Statutes of the United States (46 U.S.C.  
19          App. 91).”; and

20          (4) striking “paragraphs (1), (2), and (3)” in  
21          paragraph (6), as redesignated, and inserting “para-  
22          graphs (1), (2), (3), and (4)”.

23          (c) Section 13(f)(1) of the Shipping Act of 1984 (46  
24          U.S.C. App. 1712(f)(1)) is amended by—

1           (1) striking “or (b)(4)” and inserting “or  
 2           (b)(2)”; *and*  
 3           (2), striking “(b)(1), (4)” and inserting “(b)(1),  
 4           (2)”.

5 **SEC. 113. REPORTS AND CERTIFICATES.**

6           Section 15 of the Shipping Act of 1984 (46 U.S.C.  
 7 App. 1714) is amended by—

8           (1) striking “and certificates” in the section  
 9           heading;  
 10          (2) striking “(a) REPORTS.—” in the subsection  
 11          heading for subsection (a); *and*  
 12          (3) striking subsection (b).

13 **SEC. 114. EXEMPTIONS.**

14          Section 16 of the Shipping Act of 1984 (46 U.S.C.  
 15 App. 1715) is amended by striking “substantially impair  
 16 effective regulation by the Commission, be unjustly dis-  
 17 criminatory, result in a substantial reduction in competi-  
 18 tion, or be detrimental to commerce.” and inserting “result  
 19 in substantial reduction in competition or be detrimental  
 20 to commerce.”.

21 **SEC. 115. AGENCY REPORTS AND ADVISORY COMMISSION.**

22          Section 18 of the Shipping Act of 1984 (46 U.S.C.  
 23 App. 1717) is repealed.



1 **SEC. 116. OCEAN FREIGHT FORWARDERS.**

2       *Section 19 of the Shipping Act of 1984 (46 U.S.C.*  
 3 *App. 1718) is amended by—*

4               *(1) striking “freight forwarders” in the section*  
 5 *caption and inserting “transportation*  
 6 *intermediaries”;*

7               *(2) striking subsection (a) and inserting the fol-*  
 8 *lowing:*

9       *“(a) LICENSE.—No person in the United States may*  
 10 *act as an ocean transportation intermediary unless that*  
 11 *person holds a license issued by the Commission. The Com-*  
 12 *mission shall issue an intermediary’s license to any person*  
 13 *that the Commission determines to be qualified by experi-*  
 14 *ence and character to act as an ocean transportation*  
 15 *intermediary.”;*

16               *(3) redesignating subsections (b), (c), and (d) as*  
 17 *subsections (c), (d), and (e), respectively;*

18               *(4) inserting after subsection (a) the following:*

19       *“(b) FINANCIAL RESPONSIBILITY.—*

20               *“(1) No person may act as an ocean transpor-*  
 21 *tation intermediary unless that person furnishes a*  
 22 *bond, proof of insurance, or other surety in a form*  
 23 *and amount determined by the Commission to insure*  
 24 *financial responsibility that is issued by a surety*  
 25 *company found acceptable by the Secretary of the*  
 26 *Treasury.*

1           “(2) A bond, insurance, or other surety obtained  
2           pursuant to this section—

3                   “(A) shall be available to pay any judgment  
4                   for damages against an ocean transportation  
5                   intermediary arising from its transportation-re-  
6                   lated activities described in section 3(17) of this  
7                   Act, or any order for reparation issued pursuant  
8                   to section 11 or 14 of this Act, or any penalty  
9                   assessed pursuant to section 13 of this Act; and

10                   “(B) may be available to pay any claim  
11                   against an ocean transportation intermediary  
12                   arising from its transportation-related activities  
13                   described in section 3(17) of this Act with the  
14                   consent of the insured ocean transportation  
15                   intermediary, or when the claim is deemed valid  
16                   by the surety company after the ocean transpor-  
17                   tation intermediary has failed to respond to ade-  
18                   quate notice to address the validity of the claim.

19           “(3) An ocean transportation intermediary not  
20           domiciled in the United States shall designate a resi-  
21           dent agent in the United States for receipt of service  
22           of judicial and administrative process, including sub-  
23           poenas.”;

24           (5) striking, each place such term appears—

1           (A) “freight forwarder” and inserting  
2           “transportation intermediary”;

3           (B) “a forwarder’s” and inserting “an  
4           intermediary’s”;

5           (C) “forwarder” and inserting  
6           “intermediary”; and

7           (D) “forwarding” and inserting  
8           “intermediary”;

9           (6) striking “a bond in accordance with sub-  
10          section (a)(2).” in subsection (c), as redesignated, and  
11          inserting “a bond, proof of insurance, or other surety  
12          in accordance with subsection (b)(1).”;

13          (7) striking “FORWARDERS.—” in the caption of  
14          subsection (e), as redesignated, and inserting  
15          “INTERMEDIARIES.—”;

16          (8) striking “intermediary” the first place it ap-  
17          pears in subsection (e)(1), as redesignated and as  
18          amended by paragraph (5)(A), and inserting  
19          “intermediary, as defined in section 3(17)(A) of this  
20          Act,”;

21          (9) striking “license” in paragraph (1) of sub-  
22          section (e), as redesignated, and inserting “license, if  
23          required by subsection (a),”;

1           (10) striking paragraph (3) of subsection (e), as  
 2           redesignated, and redesignating paragraph (4) as  
 3           paragraph (3); and

4           (11) adding at the end of subsection (e), as redesi-  
 5           gnated, the following:

6           “(4) No conference or group of 2 or more ocean  
 7           common carriers in the foreign commerce of the Unit-  
 8           ed States that is authorized to agree upon the level of  
 9           compensation paid to an ocean transportation  
 10          intermediary, as defined in section 3(17)(A) of this  
 11          Act, may—

12           “(A) deny to any member of the conference  
 13           or group the right, upon notice of not more than  
 14           5 calendar days, to take independent action on  
 15           any level of compensation paid to an ocean  
 16           transportation intermediary, as so defined; or

17           “(B) agree to limit the payment of com-  
 18           pensation to an ocean transportation  
 19           intermediary, as so defined, to less than 1.25  
 20           percent of the aggregate of all rates and charges  
 21           which are applicable under a tariff and which  
 22           are assessed against the cargo on which the  
 23           intermediary services are provided.”.

1 **SEC. 117. CONTRACTS, AGREEMENTS, AND LICENSES**  
 2 **UNDER PRIOR SHIPPING LEGISLATION.**

3 *Section 20 of the Shipping Act of 1984 (46 U.S.C.*  
 4 *App. 1719) is amended by—*

5 *(1) striking subsection (d) and inserting the fol-*  
 6 *lowing:*

7 *“(d) EFFECTS ON CERTAIN AGREEMENTS AND CON-*  
 8 *TRACTS.—All agreements, contracts, modifications, and ex-*  
 9 *emptions previously issued, approved, or effective under the*  
 10 *Shipping Act, 1916, or the Shipping Act of 1984 shall con-*  
 11 *tinue in force and effect as if issued or effective under this*  
 12 *Act, as amended by the Ocean Shipping Reform Act of*  
 13 *1997, and all new agreements, contracts, and modifications*  
 14 *to existing, pending, or new contracts or agreements shall*  
 15 *be considered under this Act, as amended by the Ocean*  
 16 *Shipping Reform Act of 1997.”;*

17 *(2) inserting the following at the end of sub-*  
 18 *section (e):*

19 *“(3) The Ocean Shipping Reform Act of 1997*  
 20 *shall not affect any suit—*

21 *“(A) filed before the effective date of that*  
 22 *Act; or*

23 *“(B) with respect to claims arising out of*  
 24 *conduct engaged in before the effective date of*  
 25 *that Act filed within 1 year after the effective*  
 26 *date of that Act.*

1           “(4) Regulations issued by the Federal Maritime  
 2           Commission shall remain in force and effect where  
 3           not inconsistent with this Act, as amended by the  
 4           Ocean Shipping Reform Act of 1997.”.

5   **SEC. 118. SURETY FOR NON-VESSEL-OPERATING COMMON**  
 6                           **CARRIERS.**

7           Section 23 of the Shipping Act of 1984 (46 U.S.C.  
 8   App. 1721) is repealed.

9   **SEC. 119. REPLACEMENT OF FEDERAL MARITIME COMMIS-**  
 10                           **SION WITH INTERMODAL TRANSPORTATION**  
 11                           **BOARD.**

12           (a) *IN GENERAL.*—The Shipping Act of 1984 (46  
 13   U.S.C. App. 1701 et seq.) is amended by—

14                   (1) striking “Federal Maritime Commission”  
 15           each place it appears, except in sections 7(a)(6) and  
 16           20, and inserting “Intermodal Transportation  
 17           Board”;

18                   (2) striking “Commission” each place it appears  
 19           (including chapter and section headings), except in  
 20           sections 7(a)(6) and 20, and inserting “Board”; and

21                   (3) striking “Commission’s” each place it ap-  
 22           pears and inserting “Board’s”.

23           (b) *EFFECTIVE DATE.*—The amendments made by sub-  
 24   section (a) take effect on January 1, 1999.

1 **TITLE II—TRANSFER OF FUNC-**  
 2 **TIONS OF THE FEDERAL MAR-**  
 3 **ITIME COMMISSION TO THE**  
 4 **INTERMODAL TRANSPOR-**  
 5 **TATION BOARD**

6 **SEC. 201. TRANSFER TO THE INTERMODAL TRANSPOR-**  
 7 **TATION BOARD.**

8 (a) *CHANGE OF NAME OF SURFACE TRANSPORTATION*  
 9 *BOARD TO INTERMODAL TRANSPORTATION BOARD.*—*The*  
 10 *Surface Transportation Board shall be known as the Inter-*  
 11 *modal Transportation Board after December 31, 1998.*

12 (b) *TRANSFER OF FUNCTIONS, PERSONNEL, AND AS-*  
 13 *SETS OF THE FEDERAL MARITIME COMMISSION.*—

14 (1) *FUNCTIONS; POWERS; DUTIES.*—*All func-*  
 15 *tions, powers, and duties vested in the Federal Mari-*  
 16 *time Commission are hereby transferred to and shall*  
 17 *be administered by the Intermodal Transportation*  
 18 *Board.*

19 (2) *TRANSFER OF ASSETS AND PERSONNEL.*—  
 20 *Any personnel, property, or records employed, used,*  
 21 *held, available, or to be made available in connection*  
 22 *with a function transferred to the Board under para-*  
 23 *graph (1) shall be transferred to the Board for use in*  
 24 *connection with the function transferred, and unex-*  
 25 *pended balances of appropriations, allocations, and*

1        *other funds of the Federal Maritime Commission shall*  
 2        *be transferred to the Board. Those unexpended bal-*  
 3        *ances, allocations, and other funds, together with any*  
 4        *unobligated balances from fees collected by the Com-*  
 5        *mission during fiscal year 1999, may be used to pay*  
 6        *for the closedown of the Commission and severance*  
 7        *costs for Commission personnel, regardless of whether*  
 8        *those costs are incurred at the Commission or at the*  
 9        *Board.*

10        *(c) REGULATIONS.—No later than January 1, 1998,*  
 11        *the Federal Maritime Commission, in consultation with the*  
 12        *Surface Transportation Board, shall prescribe final regula-*  
 13        *tions to implement the changes made by this Act.*

14        *(d) AUTHORIZATION OF APPROPRIATIONS FOR FISCAL*  
 15        *YEAR 1998.—There is authorized to be appropriated to the*  
 16        *Federal Maritime Commission, \$15,000,000 for fiscal year*  
 17        *1998.*

18        *(e) COMMISSIONERS OF THE FEDERAL MARITIME*  
 19        *COMMISSION.—Effective January 1, 1999, the right of any*  
 20        *Federal Maritime Commission commissioner to remain in*  
 21        *office is terminated.*

22        *(f) MEMBERSHIP OF THE INTERMODAL TRANSPOR-*  
 23        *TATION BOARD.—*

24                *(1) NUMBER OF MEMBERS.—Section 701(b)(1) of*  
 25        *title 49, United States Code, is amended by—*



1                   (A) striking “3 members,” and inserting “5  
2                   members,”; and

3                   (B) striking “2 members” and inserting “3  
4                   members”.

5                   (2) *INITIAL TERMS.*—Of the 2 additional mem-  
6                   bers of the Intermodal Transportation Board first ap-  
7                   pointed under section 701(b)(1) of title 49, United  
8                   States Code, as amended by paragraph (1), one shall  
9                   serve for a term ending December 31, 2000, and the  
10                  other shall serve for a term ending December 31,  
11                  2002.

12                  (3) *QUALIFICATIONS.*—Section 701(b)(2) of title  
13                  49, United States Code, is amended to read as follows:

14                  “(2) At any given time, at least 3 members of the  
15                  Board shall be individuals with professional standing  
16                  and demonstrated knowledge in the fields of surface or  
17                  maritime transportation or their regulation, and at  
18                  least 2 members shall be individuals with professional  
19                  or business experience (including agriculture, surface  
20                  or maritime transportation, or marine terminal or  
21                  port operation) in the private sector. At any given  
22                  time, at least 2 members of the Board shall be indi-  
23                  viduals with professional standing and demonstrated  
24                  knowledge in maritime transportation or its regula-  
25                  tion or professional or business experience in mari-

1     *time transportation or marine terminal or port oper-*  
 2     *ation in the private sector, and at least 2 members*  
 3     *of the Board shall be individuals with professional*  
 4     *standing and demonstrated knowledge in surface*  
 5     *transportation or its regulation or professional or*  
 6     *business experience in agriculture or surface transpor-*  
 7     *tation in the private sector. Neither of the 2 individ-*  
 8     *uals appointed as surface transportation members*  
 9     *under the preceding sentence, and neither of the 2 in-*  
 10    *dividuals appointed as maritime transportation*  
 11    *members under that sentence, may be members of the*  
 12    *same political party.”.*

13   **SEC. 202. SAVING PROVISIONS.**

14     *(a) LEGAL DOCUMENTS.—All orders, determinations,*  
 15    *rules, regulations, permits, grants, loans, contracts, agree-*  
 16    *ments, certificates, licenses, and privileges—*

17         *(1) that have been issued, made, granted, or al-*  
 18         *lowed to become effective by the Federal Maritime*  
 19         *Commission or the Surface Transportation Board,*  
 20         *any officer or employee of the Surface Transportation*  
 21         *Board that are in effect on December 31, 1998, (or be-*  
 22         *come effective after such date pursuant to their terms*  
 23         *as in effect on such effective date), shall continue in*  
 24         *effect according to their terms until modified, termi-*  
 25         *nated, superseded, set aside, or revoked in accordance*

1       *with law by the Intermodal Transportation Board,*  
 2       *any other authorized official, a court of competent ju-*  
 3       *risdiction, or operation of law. .*

4       **(b) PROCEEDINGS.**— *The provisions of this title shall*  
 5       *not affect any proceedings or any application for any li-*  
 6       *cense pending before the Federal Maritime Commission or*  
 7       *the Surface Transportation Board at the time this Section*  
 8       *takes effect, but such proceedings and applications shall be*  
 9       *continued before the Intermodal Transportation Board. Or-*  
 10       *ders shall be issued in such proceedings, appeals shall be*  
 11       *taken therefrom, and payments shall be made pursuant to*  
 12       *such orders, as if this Act had not been enacted; and orders*  
 13       *issued in any such proceedings shall continue in effect until*  
 14       *modified, terminated, superseded, or revoked by a duly au-*  
 15       *thorized official, by a court of competent jurisdiction, or*  
 16       *by operation of law. Nothing in this subsection shall be*  
 17       *deemed to prohibit the discontinuance or modification of*  
 18       *any such proceeding under the same terms and conditions*  
 19       *and to the same extent that such proceeding could have been*  
 20       *discontinued or modified if this Act had not been enacted.*

21       **(c) SUITS.**—(1) *This Act shall not affect suits com-*  
 22       *menced before the date of the enactment of this Act, except*  
 23       *as provided in paragraphs (2) and (3). In all such suits,*  
 24       *proceeding shall be had, appeals taken, and judgments ren-*

1 *dered in the same manner and with the same effect as if*  
 2 *this Act had not been enacted.*

3       (2) *Any suit by or against the Federal Maritime Com-*  
 4 *mission or the Surface Transportation Board begun before*  
 5 *the effective date of this Act shall be continued with the*  
 6 *Intermodal Transportation Board.*

7       (3) *If the court in a suit described in paragraph (1)*  
 8 *remands a case to the Board, subsequent proceedings related*  
 9 *to such case shall proceed in accordance with applicable law*  
 10 *and regulations as in effect at the time of such subsequent*  
 11 *proceedings.*

12       (d) *CONTINUANCE OF ACTIONS AGAINST OFFICERS.—*  
 13 *No suit, action, or other proceeding commenced by or*  
 14 *against any officer in his official capacity as an officer of*  
 15 *the Federal Maritime Commission or the Surface Transpor-*  
 16 *tation Board shall abate by reason of the enactment of this*  
 17 *Act. No cause of action by or against the Federal Maritime*  
 18 *Commission or the Surface Transportation Board, or by or*  
 19 *against any officer thereof in his official capacity, shall*  
 20 *abate by reason of enactment of this Act.*

21 **SEC. 203. REFERENCES.**

22       *Any reference to the Surface Transportation Board in*  
 23 *any other Federal law, Executive order, rule, regulation, or*  
 24 *delegation of authority, or any document of or pertaining*  
 25 *to the Surface Transportation Board or an officer or em-*

1 *ployee of the Surface Transportation Board, is deemed to*  
 2 *refer to the Intermodal Transportation Board, or a member*  
 3 *or employee of the Board, as appropriate.*

4 **SEC. 204. EFFECTIVE DATE.**

5 *This title, and the amendments made by this section*  
 6 *shall take effect on January 1, 1999, except as otherwise*  
 7 *provided.*

8 **SUBTITLE B—CONFORMING AMENDMENTS TO UNITED**  
 9 **STATES CODE**

10 **SEC. 221. TITLE 5 AMENDMENTS.**

11 *(a) COMPENSATION FOR POSITIONS AT LEVEL III.—*  
 12 *Section 5314 of title 5, United States Code, is amended by*  
 13 *striking “Chairman, Surface Transportation Board.” and*  
 14 *inserting in lieu thereof “Chairman, Intermodal Transpor-*  
 15 *tation Board.”.*

16 *(b) COMPENSATION FOR POSITIONS AT LEVEL IV.—*  
 17 *Section 5315 of title 5, United States Code, is amended by*  
 18 *striking “Members, Surface Transportation Board.” and*  
 19 *inserting in lieu thereof “Members, Intermodal Transpor-*  
 20 *tation Board.”.*

21 **SEC. 222. TITLE 11 AMENDMENTS.**

22 *Subchapter IV of chapter 11 of title 11, United States*  
 23 *Code, is amended—*

24 *(1) by striking section 1162 and inserting in lieu*  
 25 *thereof the following:*

1 **“SEC. 1162. Definition**

2       *“In this subchapter, ‘Board’ means the ‘Intermodal*  
 3 *Transportation Board’.”; and*

4               *(2) by striking “Commission” each place it ap-*  
 5 *pears and inserting in lieu thereof “Board”.*

6 **SEC. 223. TITLE 18 AMENDMENT.**

7       *Section 6001(1) of title 18, United States Code, is*  
 8 *amended by striking “Surface Transportation Board” and*  
 9 *inserting in lieu thereof “Intermodal Transportation*  
 10 *Board”.*

11 **SEC. 224. INTERNAL REVENUE CODE OF 1986 AMENDMENTS.**

12       *(a) SECTION 3231.—Section 3231(a) of the Internal*  
 13 *Revenue Code of 1986 is amended by striking “Surface*  
 14 *Transportation Board” and inserting in lieu thereof “Inter-*  
 15 *modal Transportation Board”.*

16       *(b) SECTION 7701.—Section 7701(a)(33)(c)(i) of such*  
 17 *Code is amended by striking “Surface Transportation*  
 18 *Board” and inserting in lieu thereof “Intermodal Transpor-*  
 19 *tation Board”.*

20 **SEC. 225. TITLE 28 AMENDMENTS.**

21       *(a) Chapter 85.—Chapter 85 of title 28, United States*  
 22 *Code, is amended—*

23               *(1) in the section heading to section 1336 by*  
 24 *striking “Surface Transportation Board’s” and in-*  
 25 *serting in lieu thereof “Intermodal Transportation*  
 26 *Board’s”;*

(2) *in section 1336 by striking “Surface Transportation Board” each place it appears and inserting in lieu thereof “Intermodal Transportation Board”;*

(4) *in the item relating to section 1336 of the table of sections by striking “Surface Transportation Board’s” and inserting in lieu thereof “Intermodal Transportation Board’s”.*

(b) *Chapter 157 Amendments.—*

(1) *IN GENERAL.— Chapter 157 of such title is amended—*

(A) *by striking “SURFACE TRANSPORTATION BOARD” in the chapter heading and inserting in lieu thereof “INTERMODAL TRANSPORTATION BOARD”;* and

(B) *by striking “Surface Transportation Board” each place it appears and inserting in lieu thereof “Intermodal Transportation Board”.*

(2) *TABLE OF CHAPTERS.— The item relating to chapter 157 in the table of chapters of such title is amended by striking “Surface Transportation Board” and inserting in lieu thereof “Intermodal Transportation Board”.*

(c) *CHAPTER 158 AMENDMENTS.—*

1 **SEC. 226. TITLE 31 AMENDMENTS.**

2       Section 3726(b)(2) of title 31, United States Code, is  
3 amended by striking “Surface” and inserting “Inter-  
4 modal”.

5 **SEC. 227. TITLE 39 AMENDMENTS.**

6       Title 39, United States Code, is amended—

7           (1) in section 5005(b)(3) by striking “Surface  
8       Transportation Board” and inserting in lieu thereof  
9       “Intermodal Transportation Board”;

10          (2) in section 5201(1) by striking “Surface” and  
11       inserting “Intermodal”

12          (3) in the section heading to section 5207 by  
13       striking “Surface Transportation Board” and insert-  
14       ing in lieu thereof “Intermodal Transportation  
15       Board; and

16          (4) in the item relating to section 5207 of the  
17       table of sections of chapter 52, by striking “Surface  
18       Transportation Board” and inserting in lieu thereof  
19       “Intermodal Transportation Board”.

20 **SEC. 228. TITLE 49 AMENDMENTS.**

21       (a) CHAPTER 7.—Chapter 7 of title 49, United States  
22 Code, is amended by striking “Surface Transportation  
23 Board” each place it appears, and inserting “Intermodal  
24 Transportation Board”.

25       (b) CHAPTER 221.—Chapter 221 of such title is amend-  
26 ed—



1                   (1) in section 22101(a)(1) by striking “Sur-  
 2                   face Transportation Board” and inserting in  
 3                   lieu thereof “Intermodal Transportation Board”;

4                   (2) in section 22103(b)(1) by striking “Sur-  
 5                   face Transportation Board” and inserting in  
 6                   lieu thereof “Intermodal Transportation Board”;

7                   (3) in section 22107(c) by striking “Surface  
 8                   Transportation Board” and inserting in lieu  
 9                   thereof “Intermodal Transportation Board”.

10                  (c) Section 24301.—Section 24301(c)(2)(B)  
 11                  of such title is amended by striking “Surface”  
 12                  and inserting “Intermodal”.

13                  (d) Subtitle IV of such title is amended by  
 14                  striking “Surface Transportation Board” each  
 15                  place it appears and inserting “Intermodal  
 16                  Transportation Board”.

17                  SUBTITLE C—OTHER AMENDMENTS

18       **SEC. 241. AGRICULTURAL ADJUSTMENT ACT OF 1938**

19                       **AMENDMENTS.**

20                  Section 201 of the Agricultural Adjustment Act of 1938  
 21                  (7 U.S.C. 1291) is amended by striking “Surface Transpor-  
 22                  tation Board” each place it appears and inserting in lieu  
 23                  thereof “Intermodal Transportation Board”.

1 **SEC. 242. ANIMAL WELFARE ACT AMENDMENT.**

2        *Section 15(a) of the Animal Welfare Act (7 U.S.C.*  
 3 *6145(a)) is amended by striking “Surface Transportation*  
 4 *Board” and inserting in lieu thereof “Intermodal Transpor-*  
 5 *tation Board”.*

6 **SEC. 243. FEDERAL ELECTION CAMPAIGN ACT OF 1971**  
 7 **AMENDMENTS.**

8        *Section 401 of the Federal Election Campaign Act of*  
 9 *1971 is amended by striking “Surface” and inserting*  
 10 *“Intermodal”.*

11 **SEC. 244. FAIR CREDIT REPORTING ACT AMENDMENT.**

12        *Section 621(b)(4) of the Fair Credit Reporting Act (15*  
 13 *U.S.C. 1681s(b)(4)) is amended by striking “Surface” and*  
 14 *inserting “Intermodal.”*

15 **SEC. 245. EQUAL CREDIT OPPORTUNITY ACT AMENDMENT.**

16        *Section 704(a)(4) of the Equal Credit Opportunity Act*  
 17 *(15 U.S.C. 1691c(a)(4)) is amended by striking “Surface”*  
 18 *and inserting “Intermodal”*

19 **SEC. 246. FAIR DEBT COLLECTION PRACTICES ACT AMEND-**  
 20 **MENT.**

21        *Section 814(b)(4) of the Fair Debt Collection Practices*  
 22 *Act (15 U.S.C. 1692l(b)(4)) is amended by striking “Sur-*  
 23 *face” and inserting “Intermodal”.*

1 **SEC. 247. NATIONAL TRAILS SYSTEM ACT AMENDMENTS.**

2       Sections 8(d) and 9(b) of the National Trails System  
3 Act are each amended by striking “Surface” and inserting  
4 “Intermodal”

5 **SEC. 248. CLAYTON ACT AMENDMENTS.**

6       Sections 7, 11(a), and 16 of the Clayton Act (15 U.S.C.  
7 18, 21(a), and (22)) is amended

8 **SEC. 249. ENERGY POLICY ACT OF 1992 AMENDMENTS.**

9       Subsections (a) and (d) of section 1340 of the Energy  
10 Policy Act of 1992 (42 U.S.C. 13369 (a) and (d)) are each  
11 amended by striking “Interstate Commerce Commission”  
12 and inserting in lieu thereof “Intermodal Transportation  
13 Board”.

14 **SEC. 250. ADDITIONAL MERCHANT MARINE ACT, 1920,**  
15 **AMENDMENTS.**

16       Sections 8 and 28 of Merchant Marine Act, 1920 (46  
17 U.S.C. App. 867 and 883-1) are each amended by striking  
18 “Surface” and inserting “Intermodal”.

19 **SEC. 251. RAILWAY LABOR ACT AMENDMENTS.**

20       The first and fifth paragraphs of section 1 of the Rail-  
21 way Labor Act (45 U.S.C. 151) are each amended by strik-  
22 ing “Surface” and inserting “Intermodal”.

23 **SEC. 252. RAILROAD RETIREMENT ACT OF 1974 AMEND-**  
24 **MENTS.**

25       Subsections (a)(1)(i), (a)(2)(ii), and (o) of section 1  
26 of the Railroad Retirement Act of 1974 (45 U.S.C. 231)

1 are each amended by striking “Surface” and inserting  
 2 “Intermodal”.

3 **SEC. 253. RAILROAD UNEMPLOYMENT INSURANCE ACT**  
 4 **AMENDMENTS.**

5 Sections 1(a), a(b), and 2(h)(3) of the Railroad Unem-  
 6 ployment Insurance Act (45 U.S.C. 351(a), 351(b), and  
 7 352(h)(3) are each amended by striking “Surface” and in-  
 8 serting “Intermodal”.

9 **SEC. 254. EMERGENCY RAIL SERVICES ACT OF 1970 AMEND-**  
 10 **MENTS.**

11 Section 2(2) of the Emergency Rail Services Act of  
 12 1970 (45 U.S.C. 661(2)) is amended by striking “Surface”  
 13 and inserting “Intermodal”.

14 **SEC. 255. REGIONAL RAIL REORGANIZATION ACT OF 1973**  
 15 **AMENDMENTS.**

16 Section 713 of the Regional Rail Reorganization Act  
 17 of 1973 is amended by striking “Surface” and inserting  
 18 “Intermodal”.

19 **TITLE III—AMENDMENTS TO**  
 20 **OTHER SHIPPING AND MARI-**  
 21 **TIME LAWS**

22 **SEC. 301. AMENDMENTS TO SECTION 19 OF THE MERCHANT**  
 23 **MARINE ACT, 1920.**

24 (a) *IN GENERAL.*—Section 19 of the Merchant Marine  
 25 Act, 1920 (46 U.S.C. App. 876) is amended by—

1           (1) striking “Federal Maritime Commission”  
 2           each place it appears and inserting “Intermodal  
 3           Transportation Board”;

4           (2) striking “forwarding and” in subsection  
 5           (1)(b);

6           (3) striking “non-vessel-operating common car-  
 7           rier operations,” in subsection (1)(b) and inserting  
 8           “ocean transportation intermediary services and op-  
 9           erations,”;

10          (4) striking “methods or practices” and inserting  
 11          “methods, pricing practices, or other practices” in  
 12          subsection (1)(b);

13          (5) striking “tariffs of a common carrier” in  
 14          subsection 7(d) and inserting “tariffs and service con-  
 15          tracts of a common carrier”;

16          (6) striking “use the tariffs of conferences” in  
 17          subsections (7)(d) and (9)(b) and inserting “use tar-  
 18          iffs of conferences and service contracts of agree-  
 19          ments”;

20          (7) striking “tariffs filed with the Commission”  
 21          in subsection (9)(b) and inserting “tariffs and service  
 22          contracts”; and

23          (8) striking “freight forwarder,” each place it  
 24          appears and inserting “transportation  
 25          intermediary,”;

1           (9) striking “tariff” each place it appears in  
 2           subsection (11) and inserting “tariff or service con-  
 3           tract”; and

4           (10) striking “Commission” each place it ap-  
 5           pears (including the heading) and inserting “Board”.

6           (b) *STYLISTIC CONFORMITY*.—Section 19 of the Mer-  
 7           chant Marine Act, 1920 (46 U.S.C. App. 876), as amended  
 8           by subsection (a), is further amended by—

9           (1) redesignating subdivisions (1) through (12)  
 10          as subsections (a) through (l), respectively;

11          (2) redesignating subdivisions (a), (b), and (c) of  
 12          subsection (a), as redesignated, as paragraphs (1),  
 13          (2), and (3);

14          (3) redesignating subdivisions (a) through (d) of  
 15          subsection (f), as redesignated, as paragraphs (1)  
 16          through (4), respectively;

17          (4) redesignating subdivisions (a) through (e) of  
 18          subsection (g), as redesignated, as paragraphs (1)  
 19          through (5), respectively;

20          (5) redesignating clauses (i) and (ii) of sub-  
 21          section (g)(4), as redesignated, as subparagraphs (A)  
 22          and (B), respectively;

23          (6) redesignating subdivisions (a) through (e) of  
 24          subsection (i), as redesignated, as paragraphs (1)  
 25          through (5), respectively;

1           (7) redesignating subdivisions (a) and (b) of sub-  
 2           section (j), as redesignated, as paragraphs (1) and  
 3           (2), respectively;

4           (8) striking “subdivision (c) of paragraph (1)”  
 5           in subsection (c), as redesignated, and inserting “sub-  
 6           section (a)(3)”;

7           (9) striking “paragraph (2)” in subsection (c),  
 8           as redesignated, and inserting “subsection (b)”;

9           striking “paragraph (1)(b)” each place it ap-  
 10          pears and inserting “subsection (a)(2)”;

11          (10) striking “subdivision (b),” in subsection  
 12          (g)(4), as redesignated, and inserting “paragraph  
 13          (2),”;

14          (11) striking “paragraph (9)(d)” in subsection  
 15          (j)(1), as redesignated, and inserting “subsection  
 16          (i)(4)”;

17          (12) striking “paragraph (7)(d) or (9)(b)” in  
 18          subsection (k), as redesignated, and inserting “sub-  
 19          section (g)(4) or (i)(2)”.

20          (c) *SPECIAL EFFECTIVE DATE.*—The amendments  
 21          made by this section take effect on the date of enactment  
 22          of this Act, except that the amendments made by para-  
 23          graphs (1) and (10) of subsection (a), take effect on January  
 24          1, 1999.

1 **SEC. 302. TECHNICAL CORRECTIONS.**

2 (a) *PUBLIC LAW 89-777.*—Sections 2 and 3 of the Act  
3 of November 6, 1966, (46 U.S.C. App. 817d and 817e) are  
4 amended by—

5 (1) striking “Federal Maritime Commission”  
6 each place it appears and inserting “Intermodal  
7 Transportation Board”;

8 (2) striking “Commission” each place it appears  
9 and inserting “Board”; and

10 (3) striking “they in their discretion” each place  
11 it appears and inserting “it in its discretion”.

12 (b) *TITLE 28, UNITED STATES CODE, AND CROSS*  
13 *REFERENCE.*—

14 (1) Section 2341 of title 28, United States Code,  
15 is amended by—

16 (A) striking “the Federal Maritime Com-  
17 mission,” in paragraph (3)(A); and

18 (B) striking “Surface” in paragraph (3)(E)  
19 and inserting “Intermodal”.

20 (2) Section 2342 of such title is amended by—

21 (A) striking paragraph (3) and inserting  
22 the following:

23 “(3) all rules, regulations, or final orders of the  
24 Secretary of Transportation issued pursuant to sec-  
25 tion 2, 9, 37, 41, or 43 of the Shipping Act, 1916 (46  
26 U.S.C. App. 802, 803, 808, 835, 839, or 841a) or pur-



1        *suant to part B or C of subtitle IV of title 49 (49*  
 2        *U.S.C. 13101 et seq. or 15101 et seq.);”;* and

3                *(B) striking paragraph (5) and inserting*  
 4        *the following:*

5                *“(5) all rules, regulations, or final orders of the*  
 6        *Intermodal Transportation Board—*

7                *“(A) made reviewable by section 2321 of*  
 8        *this title; or*

9                *“(B) pursuant to—*

10                *“(i) section 19 of the Merchant Marine*  
 11        *Act, 1920 (46 U.S.C. App. 876);*

12                *“(ii) section 14 or 17 of the Shipping*  
 13        *Act of 1984 (46 U.S.C. App. 1713 or 1716);*

14        *or*

15                *“(iii) section 2(d) or 3(d) of the Act of*  
 16        *November 6, 1966 (46 U.S.C. App. 817d(d)*  
 17        *or 817e(d));”.*

18        *(c) FOREIGN SHIPPING PRACTICES ACT OF 1988.—*

19        *Section 10002(i) of the Foreign Shipping Practices Act of*  
 20        *1988 (46 U.S.C. 1710a(i)) is amended by striking*  
 21        *“2342(3)(B)” and inserting “2342(5)(B)”.*

22        *(d) TARIFF ACT OF 1930.—Section 641(i) of the Tariff*  
 23        *Act of 1930 (19 U.S.C. 1641) is repealed.*

24        *(e) EFFECTIVE DATES.—*

1           (1) *The amendments made by subsections (a),*  
 2           *(b), and (c) take effect January 1, 1999.*

3           (2) *The repeal made by subsection (d) takes effect*  
 4           *March 1, 1998.*

5       ***TITLE IV—MERCHANT MARINER***  
 6       ***BENEFITS.***

7       ***SEC. 401. MERCHANT MARINER BENEFITS.***

8           (a) *BENEFITS.—Part G of subtitle II, title 46, United*  
 9       *States Code, is amended by adding at the end the following*  
 10       *new chapter:*

                  “CHAPTER 112—MERCHANT MARINER BENEFITS

                  “Sec.

                  “11201. Qualified service.

                  “11202. Documentation of qualified service.

                  “11203. Eligibility for certain veterans’ benefits.

                  “11204. Processing fees.

11       ***“§ 11201. Qualified service***

12           *“For purposes of this chapter, a person engaged in*  
 13       *qualified service if, between August 16, 1945, and December*  
 14       *31, 1946, the person—*

15           *“(1) was a member of the United States mer-*  
 16       *chant marine (including the Army Transport Service*  
 17       *and the Naval Transportation Service) serving as a*  
 18       *crewmember of a vessel that was—*

19           *“(A) operated by the War Shipping Admin-*  
 20       *istration or the Office of Defense Transportation*  
 21       *(or an agent of the Administration or Office);*

1           “(B) operated in waters other than inland  
2           waters, the Great Lakes, other lakes, bays, and  
3           harbors of the United States;

4           “(C) under contract or charter to, or prop-  
5           erty of, the Government of the United States;  
6           and

7           “(D) serving the Armed Forces; and

8           “(2) while so serving, was licensed or otherwise  
9           documented for service as a crewmember of such a  
10          vessel by an officer or employee of the United States  
11          authorized to license or document the person for such  
12          service.

13   **“§ 11202. Documentation of qualified service**

14          “(a) *RECORD OF SERVICE.*—The Secretary shall, upon  
15          application—

16               “(1) issue a certificate of honorable discharge to  
17               a person who, as determined by the Secretary, en-  
18               gaged in qualified service of a nature and duration  
19               that warrants issuance of the certificate; and

20               “(2) correct, or request the appropriate official of  
21               the Federal government to correct, the service records  
22               of the person to the extent necessary to reflect the  
23               qualified service and the issuance of the certificate of  
24               honorable discharge.

1       “(b) *TIMING OF DOCUMENTATION.*—*The Secretary*  
 2 *shall take action on an application under subsection (a)*  
 3 *not later than one year after the Secretary receives the ap-*  
 4 *plication.*

5       “(c) *STANDARDS RELATING TO SERVICE.*—*In making*  
 6 *a determination under subsection (a)(1), the Secretary shall*  
 7 *apply the same standards relating to the nature and dura-*  
 8 *tion of service that apply to the issuance of honorable dis-*  
 9 *charges under section 401(a)(1)(b) of the GI Bill Improve-*  
 10 *ment Act of 1977 (38 U.S.C. 106 note).*

11       “(d) *CORRECTION OF RECORDS.*—*An official of the*  
 12 *Federal government who is requested to correct service*  
 13 *records under subsection (a)(2) shall do so.*

14       **“§ 11203. Eligibility for certain veterans’ benefits**

15       “(a) *ELIGIBILITY.*—

16               “(1) *IN GENERAL.*—*The qualified service of an*  
 17 *individual referred to in paragraph (2) is deemed to*  
 18 *be active duty in the armed forces during a period of*  
 19 *war for purposes of eligibility for benefits under chap-*  
 20 *ters 23 and 24 of title 38.*

21               “(2) *COVERED INDIVIDUALS.*—*Paragraph (1)*  
 22 *applies to an individual who—*

23                       “(A) *receives an honorable discharge certifi-*  
 24 *cate under section 11202 of this title; and*

1                   “(B) is not eligible under any other provi-  
 2                   sion of law for benefits under laws administered  
 3                   by the Secretary of Veterans Affairs.

4                   “(b) REIMBURSEMENT FOR BENEFITS PRO-  
 5                   VIDED.—The Secretary shall reimburse the Secretary  
 6                   of Veterans Affairs for the value of benefits that the  
 7                   Secretary of Veterans Affairs provides for an individ-  
 8                   ual by reason of eligibility under this section.

9                   “(c) PROSPECTIVE APPLICABILITY.—An individual is  
 10                  not entitled to receive, and may not receive, benefits under  
 11                  this chapter for any period before the date of enactment of  
 12                  this chapter.

13   **“§ 11204. Processing fees**

14                  “(a) COLLECTION OF FEES.—The Secretary shall  
 15                  collect a fee of \$30 from each applicant for processing  
 16                  an application submitted under section 11202(a) of  
 17                  this title.

18                  “(b) TREATMENT OF FEES COLLECTED.—  
 19                  Amounts received by the Secretary under this section  
 20                  shall be credited to appropriations available to the  
 21                  secretary for carrying out this chapter.”.

22                  (b) CLERICAL AMENDMENT.—The table of chap-  
 23                  ters at the beginning of subtitle II of title 46, United  
 24                  States Code, is amended by inserting after the item  
 25                  relating to chapter 111 the following:

“112. Merchant mariner benefits.....11201”.

1 **TITLE V—CERTAIN LOAN GUAR-**  
 2 **ANTEES AND COMMITMENTS**

3 **SEC. 501. CERTAIN LOAN GUARANTEES AND COMMIT-**  
 4 **MENTS.**

5       *The Secretary of Transportation may not issue a guar-*  
 6 *antee or commitment to guarantee a loan for the construc-*  
 7 *tion, reconstruction, or reconditioning of a vessel under the*  
 8 *authority of title XI of the Merchant Marine Act, 1936 (46*  
 9 *U.S.C. App. 1271 et seq.) unless the Commissioner of the*  
 10 *Federal Maritime Commission certifies that the operator of*  
 11 *such vessel—*

12           *(1) has not been found by the Commission to*  
 13 *have violated section 19 of the Merchant Marine Act,*  
 14 *1920 (46 U.S.C. App. 876), or the Foreign Shipping*  
 15 *Practices Act of 1988 (46 U.S.C. App. 1701a), within*  
 16 *the previous 5 years;*

17           *(2) is not currently under investigation by the*  
 18 *Commission concerning the suspected violation of sec-*  
 19 *tion 19 of the Merchant Marine Act, 1920 (46 U.S.C.*  
 20 *App. 876), the Shipping Act of 1984 (46 U.S.C. App.*  
 21 *1701 et seq.), or the Foreign Shipping Practices Act*  
 22 *of 1988 (46 U.S.C. App. 1701a);*

23           *(1) has not been found by the Commission to*  
 24 *have committed a violation of the Shipping Act of*  
 25 *1984 (46 U.S.C. App. 1701 et seq.), which involves*

1        *unjust or unfair discriminatory treatment or undue*  
 2        *or unreasonable prejudice or disadvantage with re-*  
 3        *spect to a United States shipper, ocean transportation*  
 4        *intermediary, ocean common carrier, or port; and*  
 5            *(4) is not currently under investigation by the*  
 6        *Commission concerning the suspected violation of the*  
 7        *Shipping Act of 1984 (46 U.S.C. App. 1701 et seq.)*  
 8        *which involves unjust or unfair discriminatory treat-*  
 9        *ment or undue or unreasonable prejudice or dis-*  
 10        *advantage with respect to a United States shipper,*  
 11        *ocean transportation intermediary, ocean common*  
 12        *carrier, or port.*

Amend the title so as to read “A Bill to amend the Shipping Act of 1984 to encourage competition in international shipping and growth of United States exports, and for other purposes.

○